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Thursday
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Highlights

37891 **Occupational Exposure to Lead** Labor/OSHA denies petitions for stays of new trigger levels for medical removal protection under lead standard and gives notice of variance applications and interim orders.

37973 **Banking** FRS adopts fees for securities and non-cash collection services.

37875 FDIC changes membership advertisement provisions.

37905 **Bank Holding Companies** FRS requests comments on proposed rule on data processing and electronic funds transfer activities.

37890 **Employment Taxes** Treasury/IRS permits interest-free adjustment with respect to erroneous filing of Federal Insurance Contributions Act (FICA) and Railroad Retirement Tax Act (RRTA) returns.

37888 **Income Tax** Treasury/IRS publishes regulations on definition of private foundation.

38025 **Grants Programs—Buses** DOT/UMTA asks for comments on removal of price offsets and weight incentive provisions from advanced design bus specifications.

37873 **Housing Standards** USDA/FmHA changes regulations on disposal of acquired property.

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Highlights

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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37876 **Airworthiness Maintenance Programs** DOT/FAA extends certain special flight permit eligibility.

38062 **Aviation Safety** DOT/FAA reopens comment period on parts manufacturer approval and falsification of airworthiness certification documents. (Part IV of this issue)

38048 **Air Carriers** DOT/FAA provides for new storage method of travel canes for blind passengers and public availability of evacuation procedures. (Part II of this issue)

37902 **Motor Carriers** DOT/FHWA interprets its jurisdiction over qualifications and maximum hours of service of certain commercial motor vehicle drivers.

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37952 **Motor Vehicle Safety—Air Brakes** DOT/NHTSA proposes to remove requirement for separate reservoir capable of releasing parking brakes.

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37916 **Television** FCC proposes allocating frequency band to TV auxiliary broadcast pickup stations on secondary basis.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 673]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 24–30, 1981. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: July 24, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was recommended by the committee following discussion at a public meeting on January 27, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on July 21, 1981 at Visalia, California to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at a open meeting. It is necessary to effectuate the declared policy of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review.

1. Section 908.973 is added as follows:

§ 908.973 Valencia Orange Regulation 673.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 24, 1981, through July 30, 1981, are established as follows:

(1) District 1: 408,000 cartons;

(2) District 2: 392,000 cartons;

(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 22, 1981.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc. 81–21794 Filed 7–22–81; 11:55 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1955

Disposal of Acquired Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding Disposal of Acquired Property. This revision is necessary because of legislation. The effect of this action is to require that acquired residential property meet the Agency's standard of decent, safe, and sanitary housing, including meeting the Agency's Thermal Performance Standards, prior to being sold, or the purchaser is obligated as a condition of the sale to meet such standards with respect to the property before such property is occupied, or the purchaser is precluded as a condition of the sale from using the property for residential purposes.

EFFECTIVE DATE: July 23, 1981.

FOR FURTHER INFORMATION CONTACT: Ron Tharrington, Chief, Property Management Branch, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 382–1452.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250, (202) 447–4057.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in the Secretary's Memorandum 1955 and Executive Order 12291. It has been determined to be not major. This Instruction does not directly affect any FmHA programs or projects which are

subject to A-95 clearinghouse review. The reference in the Catalog of Federal Domestic Assistance is No. 10.410 Low-to Moderate-Income Housing Loans and No. 10.417 Very-Low-Income Housing Repair Loans and Grants.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

On December 16, 1980, the Farmers Home Administration published a notice of proposed rulemaking (45 FR 82653) to amend Subpart C of Part 1955, Chapter XVIII, Title 7, Code of Federal Regulations. Interested persons were invited to submit comments concerning the proposed rule by February 17, 1981. In response to the notice of proposed rulemaking, written comments from four individuals and organizations were received by FmHA. This final rule contains revisions based on comments received as well as other information available to FmHA. The following is a discussion of the comments received:

1. Section 1955.117 (b) and (c). It was recommended that acquired property be classified according to its condition rather than by the purchaser of the property. This amendment does provide that a property will be determined to be suitable or unsuitable based on the condition of the property, whether it is feasible to repair the unit and the location of the property.

2. Section 1955.117(c)(1). It was suggested that properties should not be determined to be unsuitable if they meet all standards except thermal standards when it is determined that conforming to the thermal standards would be too costly. All residential units sold to eligible applicants are to meet HUD MPS Standards including the FmHA thermal performance standards for existing structures. Unsuitable property which cannot feasibly be repaired to include meeting the thermal performance standards will be sold "as is", with a restrictive covenant placed in the Deed of Conveyance requiring, as provided in the legislation, that the property meet decent, safe, and sanitary standards, including the thermal performance standards, before it is occupied. The agency believes that only one thermal standard is necessary and appropriate for all existing units.

3. Section 1955.117(c)(2). It was suggested that property sold "as is" should not be deeded to the purchaser until after repairs have been made or the unit demolished. The Agency believes that restrictive covenants placed in the sales agreement and the Quitclaim Deed will assure that residential units sold "as is" will be repaired to meet decent, safe, and sanitary standards prior to being occupied.

4. Section 1955.117(c). One comment recommended that purchasers of residential units sold as chattel be required to demolish the unit or repair the unit if moved to another site. The agency believes the requirement to dismantle and remove the unit from the site meets the legal requirements.

Therefore, Part 1955 Subpart C is amended as follows:

1. Section 1955.103, paragraph (g) is revised to read as follows:

§ 1955.103 Definitions.

* * * * *

(g) *Unsuitable property.* Property acquired pursuant to the Housing Act that is unfit for a borrower to carry out the objectives of an FmHA loan program; e.g., a dwelling that cannot be feasibly repaired to meet HUD Minimum Property Standards for existing construction as adopted and modified by FmHA in Subpart A of Part 1924 of this Chapter, or a property that is so poorly located it will not serve as an adequate residential unit.

§ 1955.104 [Amended]

2. In § 1955.104, paragraph (a) is amended by removing the words, "and Property Management Staff," and paragraph (b)(1) is amended by removing the words, "Chief, Property Management."

3. In § 1955.117, paragraph (b)(3) is amended by removing the words, "in accordance with paragraph (c) of this section," and inserting in their place the words, "in accordance with paragraph (f) of this section."

4. In § 1955.117, the introductory paragraph of paragraph (b) and paragraph (c) are revised, paragraphs (d) and (e) are redesignated to (e) and (f) respectively, without change, and a new paragraph (d) is added to read as follows:

§ 1955.117 Sale of real estate that secured Rural Housing (RH) loans.

* * * * *

(b) *Sale of suitable property.* Except as provided below, property sold to an eligible applicant must meet the Department of Housing and Urban Development Minimum Property Standards (HUD-MPS) for existing construction as adopted and modified by FmHA. Any repairs or improvements needed to meet HUD-MPS and to make the property saleable will be made prior to the property being offered for sale unless an eligible applicant has indicated an interest in buying the property or the County Supervisor or District Director documents that the property would likely be damaged by vandalism prior to its being sold. In such cases, a subsequent loan for improvement may be processed to eligible applicants simultaneously with the credit sale. If a suitable property not yet repaired to comply with HUD-MPS for existing construction and also not meeting the definition of "Decent, Safe, and Sanitary Housing," as outlined in paragraph (c)(1) of this Section, is offered for sale, the provisions of paragraph (c)(2)(i) and (c)(2)(ii) of this Section will apply. Suitable property will be offered for sale to eligible and ineligible applicants as follows:

* * * * *

(c) *Sale of unsuitable property.* Unsuitable property which can feasibly be improved to meet the definition of decent, safe, and sanitary housing in § 1955.117(c)(1) will be repaired prior to the property being offered for sale unless a prospective ineligible purchaser has indicated an interest in buying the property "as is" or the County Supervisor or District Director documents that the property would likely be vandalized prior to its sale. If the property is not repaired to meet decent, safe and sanitary standards, the requirements outlined in paragraphs (c)(2) (i) and (ii) of this section must be met. If the property cannot be feasibly improved to meet the definition of decent, safe, and sanitary, it will either be offered for sale "as is" with a requirement that the provisions outlined in paragraphs (c)(2) (i) and (ii) of this section be met or the structure will be offered for sale as a chattel for salvage to be dismantled and removed from the site. Units sold as chattel must be sold in accordance with § 1955.121 (a)(4) of this Subpart. If no offer is received, the unit(s) will be demolished and removed from the site and the site then offered for sale. The cost of demolishing and removing the unit(s) from the site will be handled in accordance with Subpart D of Part 1955 of this Chapter.

(1) *Decent, safe, and sanitary housing.* For the purpose of a sale of Government acquired Single Family, Multi-Family and Labor Housing structures, the following definition is applicable: "Decent, safe, and sanitary housing" unit(s) are structures which meet the requirements of HUD-MPS for existing construction or if not meeting the requirements of HUD-MPS—

(i) Are structurally sound and habitable.

(ii) Have a potable water supply.

(iii) Have a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and

(iv) Meet the Thermal Performance Standards as outlined in Exhibit D of Subpart A of Part 1924.

(2) *Requirements for sale.* (i) If the structure does not meet the requirements of "Decent, Safe and Sanitary Housing," the Notice of Sale, Listing Agreement and Agreement of Sale, must each contain the following clause:

The structure on this property presently does not meet the standards of "Decent, Safe, and Sanitary Housing" as defined by the Farmers Home Administration. Prior to being used for residential purposes, the structure must be restored or repaired to:

(A) Be structurally sound and habitable,

(B) Have a potable water supply,

(C) Have a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and

(D) Meet the Thermal Performance Standards for existing construction as outlined in Exhibit D to Supart A of Part 1924 of this Chapter.

(ii) The following or similar language adopted for use in an individual State pursuant to a State instruction approved by OGC must be added to the Quitclaim Deed for properties which do not meet the definition of decent, safe, and sanitary.

Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480(e), the purchaser ("Grantee" herein) of the above-described real property (the "subject property" herein) convenants and agrees with the United States acting by and through Farmers Home Administration (the "Grantor" herein) that the dwelling unit(s) located on the subject property as of the date of this Quitclaim Deed shall not be occupied or used for residential purposes until such time as such unit(s) is structurally sound and habitable, has a potable water supply, has a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system and meets the Thermal Performance Standards as outlined in Exhibit D of 7 CFR Part 1924 Subpart A. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and shall be construed as both a covenant running with the subject property and as an equitable servitude. This covenant shall be enforceable by the United States in any court of competent jurisdiction. At such time as the existing dwelling unit(s) on the subject property complies with the aforementioned Standards of the Farmers Home Administration or such unit(s) shall have been completely razed, upon application to Farmers Home Administration in accordance with its regulations, the subject property may be released from the effect of this covenant and this covenant shall thereafter be of no further force or effect.

In addition, Form FmHA 465–10 should be amended to contain the following language when the residential unit(s) being sold does not meet decent, safe and sanitary standards.

Note.—This property contains a dwelling unit or units which FmHA has deemed to be inadequate for residential occupancy. The Quitclaim Deed by which the property will be conveyed to the purchaser will contain a covenant binding the purchasers and the property which will restrict the residential unit(s) on the property from being used for residential occupancy until such time as the dwelling unit(s) is structually sound and habitable, has a potable water supply, has a functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal system, and meet the Thermal Performance Standards as outlined in Exhibit D, 7 CFR Part 1924, Subpart A. This restriction imposed is pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480.

(iii) A State supplement outlining the procedure for releasing the decent, safe, and sanitary covenant will be issued with the consent and approval of the Regional Attorney, Office of the General Counsel.

(d) *Urban Homesteading Program.* Provisions of the Housing and Community Development Act of 1979, Pub. L. 96–153, specifically authorized the Secretary of Housing and Urban Development (HUD) to pay for acquired Farmers Home Administration residential properties sold through the Urban Homesteading (UH) Program. Local governmental units may make application through HUD to participate in the UH Program. State Directors will be notified by the Assistant Administrator, Single Family Housing, when local governmental units in their States have obtained funding for the UH Program and will received assistance in applying this regulation to the sale of properties through the Urban Homesteading Program.

* * * * *

§ 1955.122 [Amended]

5. Section 1955.122, Report on Property not Sold, is amended by adding the words "appropriate Assistant" before the word "Administrator" and by removing the words "Attention: Property Management Staff."

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2941; 5 U.S.C. 301; Sec. 10, Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70; 28 FR 14764, 33 FR 8950)

Dated: June 17, 1981.

Dwight O. Calhoun,

Acting Administrator, Farmers Home Administration.

[FR Doc. 81–21604 Filed 7–22–81; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 328

Advertisement of Membership; Miscellaneous Amendments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: FDIC is amending several provisions of Part 328 concerning advertisement of membership. The amendments (1) add language to § 328.0 to clearly indicate that the part applies to the insured branches of foreign banks under the FDI Act as amended by the International Banking Act; (2) eliminate the requirement under § 328.1(a) for insured banks to display the official FDIC sign on automatic service facilities which receive deposits and are part of approved offices; (3) incorporate in § 328.1(b) the existing dimensions and available colors for the official FDIC sign and delete the reference to the "Official Catalog of Insured Bank Signs" which contains the information, but is no longer published; and (4) incorporate in § 328.2 the existing interpretative ruling which requires foreign banks to identify their insured and uninsured branches in all advertisements which must contain the FDIC official advertisement statement. The amendments will not impose any new requirements and will not adversely affect any insured banks. The authorities for the amendments are Sections 9 (Tenth) and 18(a) of the Federal Deposit Insurance Act.

EFFECTIVE DATE: July 23, 1981.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389–4237.

SUPPLEMENTARY INFORMATION: The first amendment is made to clarify that the part applies to foreign banks having insured branches. Section 6 of the International Banking Act of 1978 amended the definition of "insured bank" in Section 3 (h) of the FDI Act to include such entities.

Regarding the second amendment, § 328.1 of FDIC's regulations formerly required insured banks to display the

official sign on all automatic service facilities which received deposits and were part of larger, approved banking sites. FDIC now exempts the automatic service facilities from the requirement because the facilities are frequently used by a network of banks, and other financial institutions, some of which may not be insured by FDIC. The imposition of the official sign requirement was inpractical and confusing to the public. An identical exemption exists for automatic service facilities which are not part of a larger banking facility (*i.e.*, "service" facilities) for the same reason. At the sites where the newly exempted automatic service facilities are located, the offical sign will continue to be displayed at the other stations and windows where insured deposits are received. The amendment was made under Section 18(a) of the Federal Deposit Insurance Act which authorizes FDIC to prescribe the locations for the official signs in an insured bank's place of business. The official signs are provided to the banks by FDIC without cost. Thus, no significant savings will result to insured banks from the change.

The third amendment updates § 328.1(b). It deletes the reference to the "Official Catalog of Insured Bank Signs" which is no longer published. Further, it specifies the required dimensions for the signs and the colors of the signs which can be obtained from FDIC. Formerly, this information was available only in the catalog.

The fourth amendment incorporates in Part 328 an interpretative ruling regarding Section 18(a) of the Federal Deposit Insurance Act and one of its implementing regulations, § 328.2 of FDIC's regulations. Both, with certain exceptions, require an insured bank to include in its advertisement a statement indicating that its deposits are insured by FDIC. A foreign bank having an insured branch is defined in the Federal Deposit Insurance Act to be an insured bank and is subject to these requirements to prevent public confusion. FDIC construes this requirement to mean that a foreign bank with both insured and uninsured U.S. branches must specifically identify which branches are insured and which branches are uninsured in all advertisements for which the FDIC deposit insurance statement is required.

None of the amendments will have a significant impact on any insured bank. Two amendments merely incorporate into Part 328 requirements that already exist; one makes a technical correction; and the remaining amendment eliminates a minor regulatory burden. Thus, they will not have a significant economic impact on a substantial number of small entities; nor, will they affect the competitive status or recordkeeping requirements of an insured bank. For these reasons, no cost/benefit study, alternative approaches, or regulatory-flexibility analyses were undertaken or considered.

For the same reasons stated above, the FDIC Board of Directors has concluded that, under Section 553 of the Administrative Procedure Act, it is unnecessary to provide a general notice of proposed rulemaking, a period of public comment, or a 30-day delayed effective date for the amendments.

Accordingly, the FDIC Board of Directors amends 12 CFR Part 328 as follows:

(1) The authority citation for Part 328 is revised to read as follows:

Authority: Sec. 9, Pub. L. 797, 64 Stat. 881 as amended by Sec. 309, Pub. L. 95-630, 92 Stat. 3677. (12 U.S.C. 1819); Sec. 18(a), Pub. L. 797, 64 Stat. 891 (12 U.S.C. 1828(a))

(2) A sentence is added at the end of § 328.0 to read as follows:

§ 328.0 Scope.

* * * For purposes of this Part 328, the term "insured bank" includes a foreign bank having an insured branch.

(3) Section 328.1 is amended by revising the first sentences in paragraphs (a) and (b) and the first two sentences in paragraph (b)(1) to read as follows:

§ 328.1 Mandatory requirements with regard to the official sign and its display.

(a) *Insured banks to display official sign.* Each insured bank shall continuously display an official sign as prescribed below at each station or window where insured deposits are usually and normally received in its principal place of business and in all its branches, except on automatic service facilities including automated teller machines, cash dispensing machines, point-of-sale terminals, and other electronic facilities where deposits are received. However, no bank becoming an insured bank shall be required to display such official sign until twenty-one (21) days after its first day of operation as an insured bank. * * *

(b) *Official sign.* The official sign referred to in paragraph (a) of this section shall be 7" by 3" and of the following design: * * *

(1) Any insured bank may procure official signs with black letters on a gold background from the Corporation for official use at no charge. * * *

* * * * *

(4) A paragraph (a)(4) is added to § 328.2 to read as follows:

§ 328.2 Mandatory requirements with regard to the official advertising statement and manner of use.

(a) * * *

(4) When a foreign bank has both insured and noninsured U.S. branches, the bank must identify which branches are insured and which branches are not insured in all of its advertisements requiring the use of the official advertising statement.

* * * * *

By order of the Board of Directors July 13, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-21824 Filed 7-22-81; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 21129, Amdt. 21-54]

Special Flight Permits; Extension of Eligibility

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the eligibility for special flight permits with continuing authorization to all aircraft operated under the air taxi and commercial operator rules in Part 135 that are maintained under continuous airworthiness maintenance programs. This action further implements the recent major change to Part 135 which requires certain aircraft to be maintained under continuous airworthiness maintenance programs; and grants to Part 135 operators the same benefits already accorded to certificate holders under Parts 121 and 127. Under the amended rule, operators of affected aircraft under Part 135 will be relieved of many economic burdens associated with excessive maintenance downtime and of administrative burdens imposed by the prior requirement for individual flight permits or regulatory exemptions. This regulatory change is in full accord with Executive Order 12291 in reducing the burden of existing and future regulations.

EFFECTIVE DATE: July 23, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Keenan, Regulatory Review Branch (AVS-22), Safety Regulations

Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8128.

SUPPLEMENTARY INFORMATION:

Background

Permitting the flight of aircraft which may not currently meet with all applicable airworthiness requirements for the purpose of accomplishing necessary maintenance or alterations is a practice of long standing, and FAA experience with this practice does not indicate that safety has been compromised. These flights are frequently advantageous and may be safely conducted under carefully selected operating conditions and appropriate restrictions.

The authorization for flight of such aircraft is procedurally granted in the form of a special flight permit which is an airworthiness certificate issued by FAA airworthiness inspectors, upon application of the registered owner or its agent. The permit imposes conditions to insure the safety of the proposed flight and to require a certified inspection of the aircraft by an appropriately certificated maintenance entity to confirm that the aircraft is safe for that flight.

Section 21.197 of the Federal Aviation Regulations (FAR), recodified from § 1.76 of the Civil Air Regulations (CAR), basically provides that upon application by the registered owner or agent, a special flight permit may be issued for an aircraft that may not meet applicable airworthiness requirements, but is capable of safe flight for specified purposes. Section 21.199, recodified from CAR § 1.77, prescribes the method for issuance of special flight permits by the FAA airworthiness inspectors assigned to the FAA field office responsible for activities in the area where the intended flight is to originate.

Under that portion of the rule which has been in effect for over 25 years, a separate permit is required for each flight. The permit imposes conditions and limitations to insure an adequate level of safety for the proposed operation, including certification by an appropriately certificated person that the aircraft has been inspected and found safe for the intended flight.

On October 25, 1967, the FAA proposed to relax the separate permit requirement by extending the authority to allow a special flight permit to be issued with continuing authorization. That proposal made all Part 121 and Part 127 operators eligible to request a special flight permit that could be used repeatedly. The proposal became effective September 21, 1968, as § 21.197(c) in Amendment 21-22. That rule change was initiated by several requests from air carrier certificate holders for authority to issue their own ferry permits,under certain specifically controlled circumstances. The petitioners indicated that a special flight permit with a continuing authorization for such holders would be economically and administratively beneficial without derogating safety. Experience indicated that certain problems which necessitated the ferrying of aircraft reoccurred sufficiently often to justify granting to the operator a special flight permit with continuing authority to enable the ferrying of aircraft in those recurring situations. The Part 121 and Part 127 certificate holders, by virtue of FAA supervised continuous airworthiness maintenance programs are in a position to establish procedures, for necessary flights to a maintenance base, that will assure an adequate level of safety. Requiring a separate application for each ferry flight, as was previously necessary, placed a burden upon both the certificate holder and the FAA, where each request was required to be handled individually with the FAA assigned maintenance inspector.

There is a distinct relationship between continuous airworthiness maintenance programs and special flight permits with continuing authorizations. Specifically, both are dependent on formal management controls by the certificate holder in conjunction with the assignment of primary responsibility for airworthiness of aircraft subject to those programs. In addition, these certificate holders have internal communications systems which lend themselves to expeditious and accurate processing of the permit and related information. The FAA issues a permit with continuing authorization to each certificate holder in the form of operations specifications which impose conditions and limitations commensurate with the characteristics of their operations and their administrative capabilities.

The next development in amending special flight permit requirements for air carriers occurred on April 5, 1976, when the FAA proposed extending the authority of § 21.197(c) to allow operators of large aircraft under § 135.2 to apply for special flight permits with continuing authorization. The rationale for this action was that aircraft operated under § 135.2 had to be maintained under a continuing airworthiness maintenance program in accordance with Part 121 and, therefore, were subject to the same high level of control. That proposal was adopted in Amendment 21-45, effective October 28, 1977.

In December 1978, Part 135 was substantially revised to require that aircraft with 30 passenger seats or less, or a maximum payload capacity of 7,500 pounds be operated and maintained under Part 135. Further, it requires that aircraft operated under Part 135 with 10 or more passengers be maintained in accordance with continuous airworthiness maintenance programs and that aircraft with nine or less passengers could be so maintained upon election of the operator. In effect, the now current maintenance requirements for these aircraft satisfy the established eligibility criteria that have been applied to other air carriers for special flight permits with continuing authorization.

The Proposal and Discussion of Comments

The FAA has processed a number of petitions for exemption from Part 135 operators to allow issuance to them of special flight permits with continuing authorization. In granting the exemptions as being in the public interest, the FAA agreed with the operators that aircraft maintained under continuous airworthiness maintenance programs could be given such permits with no adverse effect on safety. It was also shown that under the regulation requiring individual flight permits, the operators were subject to economic penalties due to excessive aircraft downtime for maintenance items resulting from the requirement to get individual ferry approvals from FAA offices that in many cases were distantly located or closed during non-working hours. In many situations where operators believed they could not get timely FAA ferry approval, they perceived their only alternative was the relatively expensive one of transporting maintenance personnel to the remotely located aircraft that required service. Finally, even in cases where individual permits could be readily obtained, the procedure imposed an administrative burden on both the operator and the FAA.

Based on the number of petitions for exemption, the considerations that led to grants of exemption, and the overall regulatory policy of granting the same relief to all certificate holders that had been given by exemption to a few, the FAA proposed in Notice 80-23 (45 FR 80450; December 4, 1980) that the eligibility for a special flight permit with continuing authorization be extended to all Part 135 operators. Accordingly, the notice proposed to amend § 21.197(c) by

deleting the special provision for large aircraft operating under § 135.2 and substituting instead an eligibility provision covering all Part 135 aircraft operated and maintained under a prescribed continuous airworthiness maintenance program.

The proposed amendment to § 21.197 is one of 32 proposed changes contained in Notice 80-23. The other proposals of Notice 80-23 do not relate special flight permits and will be dealt with in other rulemaking actions.

Three comments were received on the proposal. All of the commenters concurred in the proposal; however, one commenter recommended further extending the eligibility to manufacturers to allow them to ferry uncertificated (i.e., "green") aircraft from one manufacturing facility to another. This suggestion is beyond the scope of the notice since the proposal was clearly limited to Part 135 operators flying aircraft to a base where maintenance or alterations are to be performed. Morever, the commenter did not explain why manufacturers need such a permit or why current procedures are inadequate.

Discussion of the Amendment

The revision of § 21.197 adopted by this amendment is the same as the one proposed in Notice 80-23. Under the amendment, the specific guidelines, conditions, and limitations for administering the authorization for certificate holders under Part 135 will be identical to those for certificate holders under Parts 121 and 127. Procedurally, the special flight permit with a continuing authorization will be issued as an amendment to the certificate holders' operations specifications using the certificate holders' manual for amplification. The special flight permit with continuing authorization will eliminate the considerable economic and administrative burden on the certificate holders under Part 135, and the affected FAA elements associated with individual special flight permits needed for ferrying aircraft to bases where maintenance can be performed. Through approval of the certificate holder's continous airworthiness maintenance programs, by setting conditions and limitations in operations specifications, and by prescribing detailed instructions in the certificate holder's manual, the FAA's issuance of special flight permits with continuing authorization afford an equivalent level of safety to that established when the FAA issues individual special flight permits. It should be noted that no flight conducted under a special flight permit with a continuing authorization will involve carriage of passengers.

Based upon its experience with Parts 121 and 127 operators, the FAA concludes that allowing air taxi operators the same rights to be eligible for continuing authorization of special flight permits is in the public interest. It will allow a segment of the aviation industry that maintains its aircraft under a continuous airworthiness maintenance program the same rights as other segments. The rule does not grant blanket authority solely because the operator uses a continuous airworthiness maintenance program, but gives eligibility to all those operators. Special flight permits with continuing authorization will be granted on an individual operator basis, similar to those granted to Part 121 and Part 127 operators.

Adoption of the Amendment

Accordingly, Part 21 of the Federal Aviation Regulations (14 CFR Part 21) is amended effective July 23, 1981, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

By revising § 21.197(c) to read as follows:

§ 21.197 Special flight permits.

* * * * *

(c) Upon application, as prescribed in §§ 121.79, 127.27, and 135.17 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

(1) Certificate holders authorized to conduct operations under Part 121 or Part 127 of this chapter; or

(2) Certificate holders authorized to conduct operations under Part 135 for those aircraft they operate and maintain under a continuous airworthiness maintenance program prescribed by § 135.411 (a)(2) or (b) of that part.

* * * * *

(Secs. 313(a), 314, and 601 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1355, and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.49).)

Note.—Since this amendment is relaxatory in nature and affects relatively few aircraft operators, it has been determined that this document (1) involves a regulation which is not a major rule under Executive Order 12291; (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) under the criteria of the Regulatory Flexibility Act, promulgates a rule that will not have a significant economic impact on a substantial number of small entities.

A copy of the final regulatory evaluation for this action is contained in the public docket. A copy of that evaluation may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C. on July 1, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-21664 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-GL-6-AD; Amdt. 39-4172]

Airworthiness Directive; Bellanca Aircraft Corporation Model 8KCAB, FAA Approved Airplane Flight Manuals and Model 7ECA, 7GCAA, 7GCBC, and 7KCAB Operations Limitations Instructions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which requires information to be added to:

1. Bellanca Model 8KCAB, FAA Approved Airplane Flight Manuals and;
2. Bellanca Models 7ECA, 7GCAA, 7GCBC and 7KCAB Operations Limitations Instructions.

This AD is being issued as a result of NTSB Safety Recommendation No. A-81-45, which addressed improper field installations of occupant safety belts. This AD is being enacted to prevent a potentially dangerous situation. Due to improperly installed front seat occupant "competition harness" safety belts, the rear seat stick becomes entangled in the front seat safety belt.

DATES: Effective—July 28, 1981.

ADDRESSES: Written comments are not requested.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Payauys, Engineering and Manufacturing Branch, AGL-210, Flight Standards Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7138.

SUPPLEMENTARY INFORMATION: The FAA agrees with the NTSB Safety Recommendation No. A-81-45 except

that the AD should not be limited to the Bellanca Model 8KCAB only. The FAA believes that similar field installations of occupant safety belts may be made in Bellanca Model 7ECA, 7GCAA, 7GCBC and 7KCAB airplanes, and that these airplanes should be included for proper consideration.

In many instances, the original lap belt and single diagonal shoulder harness has been supplemented with an additional harness for competition aerobatics. This additional harness is provided as an option by the manufacturer, or as an added alteration by other persons.

At least two accidents have occurred because the competition harness was not configured according to the approved data. Namely, the harness straps were passed behind the seat back so as to foul the rear control stick in the full forward position. The proper installation should insure that the harness straps be installed on the forward side of the front seat back cushion.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Bellanca Aircraft Corporation. Applies to Models 8KCAB, 7ECA, 7GCAA, 7GCBC and 7KCAB airplanes certificated in Acrobatic category.

To insure that the competition harness (also referred to as the ACRO harness) is installed properly, accomplish the following before further flight:

1. Unless previously accomplished, insert figure I of this AD into all applicable aircraft having approved flight manuals.

2. Attach figure I of this AD to all "Operating Limitations Instructions" (yellow card) for those applicable aircraft where a flight manual is not required (Model 7 Series airplanes).

3. Inspect all competition harness installations to insure that the shoulder straps are installed in accordance with figure I of this AD. Insure that the shoulder straps of the added harness pass on the forward side of the seat back.

This amendment becomes effective July 28, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing the Engineering and Manufacturing Branch, AGL-210, Flight Standards Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. It has also been determined under the criteria for the Regulatory Flexibility Act that this rule, at promulgation, will not have a significant economic impact on a substantial number of small entities. The aforesaid determinations under the Regulatory Flexibility Act and Executive Order 12291 are based upon the small number of aircraft and entities which will be affected by the AD, and upon the minimal cost which these entities will incur in complying with this AD.

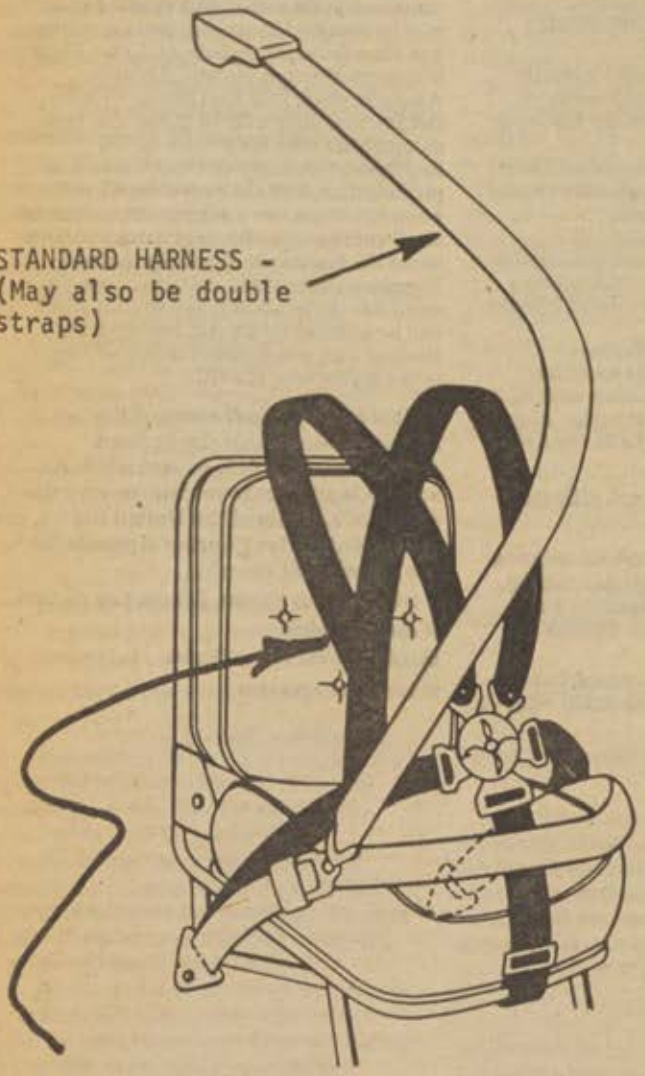
This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Des Plaines, Illinois, July 13, 1981.

Wayne J. Barlow,

Director, Great Lakes Region.

BILLING CODE 4910-13-M



SUPPLEMENTAL ACRO HARNESS
(Shoulder Straps must be on forward side of seat back)

NOTE: Acro harness does not provide for forward restraint crash protection and therefore should always be used with primary lap belt and shoulder strap.

WEARING FRONT SEAT ACRO HARNESS

ACRO HARNESS ASSEMBLY INCLUDES:

- -Double Shoulder Harness with retractor reel.
- -Lap belt (L & R portions).
- -Groin strap.
- -Five point buckle.

Installation:

- -Extend shoulder harness from reel.
- -Adjust over shoulders and couple to buckle.
- -Allow shoulder harness reel to retract and adjust harness placing the buckle above the waist but below the chest.
- -Attach both lap belt portions to buckle and tighten.

CAUTION

DO NOT ALLOW SHOULDER HARNESS TO RUN UP BEHIND THE FRONT SEAT BACK WHERE IT MAY POSSIBLY INTERFERE WITH REAR STICK MOVEMENT.

Figure 1 of A.D. Note 39-4172

[FR Doc. 81-21332 Filed 7-22-81; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 81-GL-07-AD; Amdt. 39-4169]

Airworthiness Directives; Dowty Rotol (c) R.289/3 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new Airworthiness Directive (AD), which was previously made effective by priority mail letter dated June 12, 1981, AD 81-13-05, applicable to Dowty Rotol (c) R.289/3-110-F/1 and (c) R.289/3-110-F/11 propellers installed on the WSK-Pezetel Model PZL-3S engine used on Gulfstream American (formerly Grumman) Model G-164A, B, C airplanes modified by Supplemental Type Certificate (STC) SA 2731SW, and Ayres (formerly Rockwell) Model S2R-R3S, and Model S2R airplanes modified by STC SA3897WE. This amendment requires a repetitive visual inspection of the propeller blade leading edge for damage prior to each engine start or prior to accumulating three hours of engine operating time, whichever occurs first, and a dye penetrant inspection every 15 hours of engine operating time to preclude the possibility of catastrophic propeller blade tip failure.

DATES: Effective—July 28, 1981.

Comments related to this amendment must be received on or before September 1, 1981. Depending on the comments received, the requirements of this amendment may be modified.

Compliance schedule—as prescribed in body of AD.

ADDRESSES: None. No service document is required for compliance with this AD.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7130.

SUPPLEMENTARY INFORMATION: This amendment was prompted by two blade tip failures on airplanes utilizing this engine/propeller combination that were in compliance with previously issued ADs 81-05-04 and 81-07-09 which imposed a restricted operating range and required reindexing the propeller to the engine crankshaft to reduce blade tip stress. This new AD is necessary in addition to the previously issued ADs to preclude the possibility of catastrophic propeller blade tip failures which may lead to loss of life or property.

Failures of the blade in the form of cracks or tip separations are directly related to vibration fatigue which initiates from nicks and gouges in the leading edge in the outer 15 inches of the blade. Accordingly, this AD prescribes frequent inspection for damage and cracks in the blade leading edge. Nicks must be removed by certificated mechanics or propeller repair stations using procedures and techniques prescribed in Section 3 of Advisory Circular 43.13.1A or in accordance with instructions provided by Dowty Rotol.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective immediately.

Although this action is in the form of a final rule, which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Dowty Rotol. Applies to Dowty Rotol (c)R.289/3-110-F/1 and (c)R.289/3-110-F/11 propellers used on the WSK-Pezetel Model PZL-3S engine installed on but not limited to Gulfstream American (formerly Grumman) Model G-164A, B, C airplanes modified by STC SA2731SW, and Ayres (formerly Rockwell) Model S2R-R3S, and Model S2R airplanes modified by STC SA3897WE.

Compliance is required as indicated unless previously accomplished. To preclude the possibility of blade tip failures, accomplish the following:

Prior to each engine start or prior to accumulating 3 hours of engine/propeller operating time, whichever occurs first, using a 2x to 5x power magnifying glass, or equivalent, visually inspect for cracks, scratches, pitting, nicks, dents or gouges the outer 15 inches of the leading edge on propeller blades, P/N 660705335, in the area extending at least one inch on either side of the leading edge. No cracks or damage are permitted. Any blades with cracks must be replaced with an airworthy blade before further flight. All surface damage in the form of scratches, pitting, nicks, dents or gouges must be removed before further flight in accordance with Dowty Rotol Service Instructions or Section 3 of Advisory Circular 43.13-1A.

In addition, prior to accumulating 15 hours of engine/propeller operating time, using dye penetrant or equivalent, inspect the outer 15 inches of the leading edge of propeller blades, P/N 660705335, in the area extending at least one inch on either side of the leading edge for cracks and reinspect at least once every 15 operating hours thereafter. No cracks are permitted, and any blades with cracks must be replaced with an airworthy blade before further flight.

Upon request of the operator, an equivalent means of compliance with the requirement of this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective July 28, 1981 as to all persons except those to whom it was made immediately effective by the priority mail letter dated June 12, 1981, AD 81-13-05, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "For Further Information Contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Des Plaines, Illinois on July 14, 1981.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 81-21337 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-GL-17-AD; Amdt. 39-4171]

Airworthiness Directives; Dowty Rotol (c)R.175 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires an inspection for cracks in the hub and driving center assembly, P/Ns 601022104 and 601022420, of certain Dowty Rotol Root 30 propellers, replacement of the hub if cracks are found, and repetitive inspections of the hub and driving center assembly until a modified hub and driving center assembly is incorporated. The AD is needed to prevent failures of the propeller hub which could occur if cracks are not detected before the hub strength is reduced to an unsafe level.

DATES: Effective—July 28, 1981.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service documents may be obtained from:

Dowty Rotol, Inc, Staverton West, Sully Road, Box 5000, Sterling, VA 22170

or

Dowty Rotol, Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

A copy of the applicable service documents is contained in the Rules Docket, Office of the Regional Counsel, Great Lakes Region, Room 415, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7130.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of Dowty Rotol (c)R.175 propellers was published in the **Federal Register** at 45 FR 66175, October 6, 1980. The proposal was prompted by Dowty Rotol Service Bulletin No. 61-909 which was classified as mandatory by the British Civil Aviation Authority.

There have been reports of cracks occurring in the radius between the front wall and the snout of the hub on certain Dowty Rotol Root 30 propellers (Type R.175/4-30-4/13E), with hub and driving center assembly, P/Ns 601022104 or 601022420, that do not have Dowty Rotol Service Bulletin 61-604 (Mod. No. (c) VP2388) incorporated. This can seriously reduce the structural integrity of the propeller hub, and if undetected could cause a propeller to fail. Since this condition is likely to exist on other propellers of the same type design, this AD would require repetitive inspections on these propellers until modified by Service Bulletin 61-604.

Interested persons have been afforded the opportunity to participate in the making of the amendment and no comments were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Dowty Rotol Ltd. Applies to Dowty Rotol propellers Type R175/4-30-4/13E with hub and driving assembly, P/Ns 601022104 or 601022420, which do not have Dowty Rotol Service Bulletin 61-604 (Mod. No. (c)VP2388) incorporated, as installed on, but not limited to Fairchild F-27, F-27B, and Fokker F-27 Mks 100, 300, and 700 airplanes.

Compliance is required as indicated, unless already accomplished.

To prevent propeller failure due to cracking of the propeller hub, accomplish the following repetitive actions until modified in accordance with paragraph (d) below:

(a) Propeller hubs with less than 20,000 total hours time in service, inspect in accordance with paragraph (c) at next overhaul or prior to accumulating 22,000 total hours, whichever occurs first, and reinspect in accordance with paragraph (c) at each subsequent overhaul. If an operator finds a cracked hub in his fleet, the reinspection interval must not exceed 2,000 operating hours on all of his propellers that exceed 20,000 total hours.

(b) Propeller hubs with 20,000 or more total hours time in service, inspect as follows:

(1) Hubs with more than 1400 hours since last inspection or overhaul, inspect in accordance with paragraph (c) prior to accumulating 600 additional operating hours after the effective date of this AD and reinspect in accordance with paragraph (c) at each subsequent overhaul. If an operator finds a cracked hub in his fleet, the reinspection interval must not exceed 2,000 operating hours on all of his propellers that exceed 20,000 total hours.

(2) Hubs with less than 1400 hours since last inspection or overhaul, inspect in accordance with paragraph (c) prior to accumulating 2,000 hours since last inspection or overhaul and reinspect at each subsequent overhaul. If an operator finds a cracked hub in his fleet, the reinspection interval must not exceed 2,000 operating hours on all of his propellers that exceed 20,000 total hours.

(c) Inspection Procedure:

(1) During overhaul or propeller disassembly, crack test the hub front wall to snout radius in accordance with Part 2A of Dowty Rotol Service Bulletin No. 61-909 dated September 19, 1978, as revised March 12, 1979, or FAA approved euivalent. If cracks are found, replace the cracked hub with a hub known to be free of cracks.

(2) For propellers between overhauls, remove, disassemble, inspect, reassemble and reinstall in accordance with Part 2B of Dowty Rotol Service Bulletin No. 61-909 dated September 19, 1978, as revised March 12, 1979, or FAA approved equivalent. If cracks are found during inspection, additional propeller disassembly is necessary to replace the cracked hub with a hub known to be free of cracks, and testing and rebalancing and resetting blade angles is necessary.

(d) Terminating Action:

The inspections required by this AD may be discontinued when propellers are modified by Dowty Rotol Service Bulletin No. 61-604 (Mod. No. (c) VP2388) dated July 1968 as revised by Revision 2 dated November 24, 1971, or FAA approved equivalent.

Upon request of an operator, the Chief, Engineering and Manufacturing Branch, AGL-210, Federal Aviation Administration, Great Lakes Region, may adjust the compliance time specified in paragraph (a) of this AD provided such requests are made through an FAA maintenance inspector, and the request contains substantiating data to justify the request for that operator.

For purposes of this AD, an FAA approved equivalent must be approved by the Chief, Engineering and Manufacturing Branch, AGL-210, Federal Aviation Administration, Great Lakes Region.

This amendment becomes effective July 28, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing Engineering and Manufacturing Branch, AGL-214, Flight Standards Division, FAA, 2300 East Devon Ave., Des Plaines, Illinois 60018. It has also been determined under the criteria of the Regulatory Flexibility Act that this rule, at promulgation, will not have significant economic impact on a substantial number of small entities. The aforesaid determinations under the Regulatory Flexibility Act and Executive Order 12291 are based upon the small number of aircraft and entities which will be affected by this AD, and upon the minimal cost which these entities will incur in complying with this AD.

The manufacturer's specifications and procedures identified in the directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer may obtain copies upon request to:

Dowty Rotol, Inc., Staverton West, Sully Road, Box 5000, Sterling, VA 22170

or

Dowty Rotol, Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

These documents may also be examined at the Great Lakes Region, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Des Plaines, Illinois on July 13, 1981.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 81-21334 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-GL-14-AD; Amdt. 39-4170]

Airworthiness Directives; Dowty Rotol Root 20, 30 and 40 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires a one-time inspection of the pitch lock cylinder for cracks and a dimensional check in specified areas of the pitch lock cylinder and the lock support sleeve of Dowty Rotol Root 20, 30 and 40 propellers, replacement of the pitch lock cylinder if cracks are found, and rework of the pitch lock cylinder and lock support sleeve if incorrect dimensions are found. This AD is needed to prevent fatigue failures of the propeller pitch lock which could result in loss of control of the propeller.

DATES: Effective—July 28, 1981.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service documents may be obtained from:

Dowty Rotol, Inc., Staverton West, Sully Road, Box 5000, Sterling, VA 22170

or

Dowty Rotol, Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

A copy of the applicable service documents is contained in the Rules Docket, Office of the Regional Counsel, FAA, Great Lakes Region, Room 415, 2300 E. Devon Avenue, Des Plaines, IL 60018.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312/694-7130.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of Dowty Rotol Root 20, 30 and 40 propellers was published in the **Federal Register** at 45 FR 58134 September 2, 1980. The proposal was prompted by Dowty Rotol Service Bulletin No. 61-906 which was classified as mandatory by the British Civil Aviation Authority.

There have been reports of cracks occurring in the pitch lock cylinder on Dowty Rotol Root 20, 30 and 40 propellers which have Dowty Rotol Service Bulletin 61-838 (Mod. No. (c)VP2833) or SB 61-889 (Mod. No. (c)VP2866) incorporated. Cracks could cause the pitch lock cylinder to fail and result in loss of adequate control of the propeller in certain regimes of airplane operation.

Since this condition is likely to exist or develop on other propellers of the same type design, the AD requires (a) a one-time inspection of the pitch lock cylinder to detect cracks; (b) replacement of cracked pitch lock cylinders; (c) a dimensional check and rework as needed of the pitch lock cylinder chamfer; and (d) a dimensional check and rework as needed of the lock support sleeve internal chamfer, as installed on certain Dowty Rotol Root 20, 30 and 40 type propellers, and pitch lock cylinders and lock support sleeves held as spares.

Interested persons have been afforded the opportunity to participate in the making of the amendment and comments were received. The National Business Aircraft Association, Inc. apprised us that the latest revision to Dowty Rotol Service Bulletin No. 61-906 was Revision 4 dated June 12, 1980, and otherwise concurred with the proposed AD.

Indian Airlines of Calcutta indicated they have been complying with Dowty Rotol Service Bulletin No. 61-906 since 1978, and they have not found any cracks in any of their propellers.

The FAA concurred with these comments and they are incorporated in this AD.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Dowty Rotol, Ltd. Applies to the 7 Dowty Rotol propeller types listed which have Mod. No. (c)VP2833 (Service Bulletin 61-838) or Mod. No. (c)VP2866 (Service Bulletin 61-889) incorporated, as installed on, but not limited to the airplane models shown, and pitch lock cylinders and lock support sleeves, P/N 601027277, held as spares.

Note.—This AD does not apply to propellers Serial No. DRG 67/78 and subsequent or any pitch lock assembly having a ¾ inch white paint spot on the cylinder cover.

Propeller type	Installed airplane model
R184/4-30-4/50...	Grumman G-159.
R193/4-30-4/50 & 61.	Fairchild F-27A, F, G, and J; Fokker F-27 Mks 200, 400, 500 & 600; Fairchild Hiller FH-227 Series.
R257/4-30-4/60...	Fairchild F-27M; Fairchild Hiller FH-227 B, C, D & E.
R209/4-40-4.5/2.	YS11 & 11A.
R245/4-40-4.5/13.	GD/Convair 240 with STC # SA1054WE installed; GD/Convair 340/440 with STC # SA1096WE installed.
R259/4-40-4.5/17.	GD/Convair 340/440 with STC # SA1096WE installed.
R179/4-20-4/33...	Viscount 810 Series.

Compliance is required as indicated, unless already accomplished.

To prevent cracks in the propeller pitch lock cylinder, accomplish the following one-time only actions:

(a) Within the next 1,000 hours time in service after the effective date of this AD, or at the next propeller overhaul, whichever occurs first, inspect the propeller pitch lock cylinder for cracks in accordance with paragraph 2.A., "Accomplishment Instructions," of Dowty Rotol Service Bulletin 61-906, Revision 4, dated June 12, 1980 (hereinafter referred to as service bulletin), or an FAA-approved equivalent, and—

(1) If any cracks are found, before further flight, remove the pitch lock cylinder from service and replace it with a crack-free pitch lock cylinder of the same part number, which has been inspected and, if necessary, reworked and reprotected in accordance with paragraphs (b) and (c) of this AD.

(2) If no cracks are found, comply with paragraphs (b) and (c) of this AD before further flight.

(b) Inspect the chamfer around the snout adjacent to the radius at the base of the bore at the forward end of the pitch lock cylinder in accordance with paragraph 2.A.(5) of the service bulletin, or an FAA-approved equivalent and—

(1) If the chamfer is found to be within the dimensions shown in Figure 2 of the service bulletin, or an FAA-approved equivalent, the pitch lock cylinder may be returned to service.

(2) If the chamfer is found to be outside the dimensions shown in Figure 2 of the service

bulletin, or an FAA-approved equivalent, rework and reprotect it in accordance with paragraph 2.A.(5) of the service bulletin, or an FAA-approved equivalent before returning the pitch lock cylinder to service.

(c) Inspect the large internal chamfer at the rear end of the lock support sleeve, P/N 601027277, in accordance with paragraph 2.A.(6) of the service bulletin, or an FAA-approved equivalent, and—

(1) If the dimensions are found to be within the dimensions shown in Figure 3 of the service bulletin, or an FAA-approved equivalent, the lock support sleeve may be returned to service.

(2) If the dimensions are found to be outside the dimensions shown in Figure 3 of the service bulletin, or an FAA-approved equivalent, rework and reprotect the lock support sleeve, P/N 601027277, in accordance with paragraph 2.A.(6) of the service bulletin, or an FAA-approved equivalent, before returning the lock support sleeve to service.

(d) Before releasing to service any pitch lock cylinders held as spares, irrespective of part number, inspect them and remove from spares or rework and reprotect, as required, in accordance with paragraphs (a) and (b) of this AD.

(e) Before releasing to service any support sleeves, P/N 601027277, held as spares, inspect them and remove from spares or rework and reprotect, as required, in accordance with paragraph (c) of this AD.

Upon request of an operator, the Chief, Engineering and Manufacturing Branch, AGL-210, Federal Aviation Administration, Great Lakes Region, may adjust the compliance time specified in paragraph (a) of this AD provided such requests are made through an FAA maintenance inspector, and the request contains substantiating data to justify the request for that operator.

For purposes of this AD, an FAA-approved equivalent must be approved by the Chief, Engineering and Manufacturing Branch, AGL-210, Federal Aviation Administration, Great Lakes Region.

This amendment becomes effective July 28, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended [49 U.S.C. 1354(a), 1421, and 1423]; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing Engineering and Manufacturing Branch, AGL-214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018. It has also been determined under the criteria of the Regulatory Flexibility Act that this rule, at promulgation, will not have a significant economic impact on a substantial number of small entities. The aforesaid determinations under the Regulatory Flexibility Act and Executive Order 12291 are based upon the small number of aircraft and entities which will be affected by this AD, and upon the minimal cost which these entities will incur in complying with this AD.

The manufacturer's specifications and procedures identified in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer may obtain copies upon request to:

Dowty Rotal, Inc., Staverton West, Sully Road, Box 5000, Sterling, VA 22170

or

Dowty Rotol, Ltd., Cheltenham Road, Gloucester, England GL2 9QH.

These documents may also be examined at the Great Lakes Regional Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Des Plaines, Illinois on July 13, 1981.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21335 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 21986; Amdt. 39-4174]

Airworthiness Directives; Flug Und Fahrzeugwerke AG Model Diamant 16.5 and 18 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which supersedes an existing airworthiness directive (AD) applicable to certain Flug Und Fahrzeugwerke AG Model Diamant 16.5 and 18 Gliders. The new AD provides for terminating action of the operating limitations required by the existing AD by making mandatory the incorporation of wing reinforcements.

DATES: Effective—August 6, 1981.

Compliance schedule—as prescribed in the body of the AD.

ADDRESS: The applicable service bulletin may be obtained from: Flug Und Fahrzeugwerke AG, CH-9422 Staad-SG, Switzerland.

A copy of each service bulletin [1] is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3905 (45 FR 57368), AD 80-18-09, which currently requires the installation of a legible operating limitations placard in full view of the pilot on certain Flug Und Fahrzeugwerke AG Model Diamant 16.5 and 18 gliders. The AD was necessary to reduce the possibility of wing failure due to possible inadequate bonding of the wing spar cap to the wing shear web. After issuing Amendment 39-3905 the FAA determined that certain wing reinforcements on the gliders are necessary to preclude wing failure. These wing reinforcements will terminate the operating limitations required by the existing AD. Therefore, the FAA is superseding Amendment 39-3905 (AD 80-18-09) by requiring an inspection and repair of inadequate bonding between the upper hat section and the shear web, reinforcement of the right hand wing stub spar, and eliminating the requirement for the operating limitations placard.

Since a situation exists that requires immediate adoption of this regulation, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Flug Und Fahrzeugwerke AG. Applies to Model Diamant 16.5 and 18 gliders, serial numbers 11 through 80, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of wing failure due to possible inadequate bonding of the wing spar cap to the wing shear web, accomplish the following:

(a) Before further flight, install a legible operating limitations placard in full view of the pilot that reads:

"V_{NE}—Never Exceed Speed 103 MPH, 90 KTS
VA—Caution Speed Range 74 to 103 MPH, 64 to 90 KTS

[1] Service bulletins were filed as a part of the original document.

No Abrupt Control Movements—Avoid Turbulence
Maximum Maneuver Load Factor: +2.8 to −1.4
Maximum Gust Load Factor: +3.5 to −1.75."

or install an equivalent placard approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

(b) Prior to the accumulation of 1500 hours time in service or 50 hours after the effective date of this AD, whichever comes later, for gliders with serial numbers 26 through 80, and 1000, hours time in service or 50 hours after the effective date of this AD, whichever comes later, for gliders with serial numbers 11 through 25:

(1) Inspect, and repair as necessary, wing bonding in accordance with paragraphs 2 and 3, "Inspection Instructions," of Flug Und Fahrzeugwerke AG Service Bulletin No. 07, dated December 1978, or an FAA-approved equivalent; and

(2) For gliders with serial numbers 26 to 80, reinforce right hand wing stub spar in accordance with paragraph 2, "Accomplishment Instructions," of Flug Und Fahrzeugwerke AG Service Bulletin 08, dated December 1978, or an FAA-approved equivalent.

(3) For gliders with serial numbers 11 through 25, reinforce right hand wing stub spar in accordance with paragraph 2, "Accomplishment Instructions," of Flug Und Fahrzeugwerke AG Service Bulletin 08A, dated February 1979, or an FAA-approved equivalent.

(c) Upon accomplishment of the inspection, repair and wing reinforcement required by paragraph (b) of this AD, the flight limitations placard required by paragraph (a) of this AD is no longer required.

(d) If an equivalent means of compliance is used in complying with paragraph (b) of this AD, that equivalent means must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment supersedes Amendment 39-3905, AD 80-18-09.

This amendment becomes effective Aug. 6, 1981

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Flug Und Fahrzeugwerke AG, CH-9422 Staad SG, Switzerland. These documents may be examined at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "For Further Information Contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C. on July 16, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-21333 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 75-SW-7; Amdt. 39-4166]

Airworthiness Directives; Gulfstream American (Rockwell) Models 500, 500A, 500B, 500S, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), and 720 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an amendment to an existing Airworthiness Directive (AD), applicable to Gulfstream American (Rockwell) Models 500, 500A, 500B, 500S, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), and 720 to require additional inspections, repair, or modification to the "bob-weight" mounting bracket side supports to prevent crack recurrence.

DATES: Effective August 9, 1981. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Gulfstream American Corporation, 5001 North Rockwell Avenue, Bethany, Oklahoma 73008.

These documents may also be examined at the office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James L. Patras, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) to amend Part 39 of the Federal Aviation Regulations to amend an existing airworthiness directive requiring inspection, repair, or modification to prevent crack recurrence on Gulfstream American Models 500, 500A, 500B, 500S, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), and 720 airplanes, was published in the **Federal Register** (46 FR 26070).

The NPRM was needed because inspection of six aircraft found cracks in the original "bob-weight" support installation. Total hours since the "bob-weight" installation averaged 3,220 hours prior to detecting cracks. This condition is likely to exist or develop on other aircraft with the "bob-weight" installation. This amendment to the AD would require inspection, repairs, or modification of the structure to prevent recurrence. Gulfstream American (Rockwell) Service Bulletin No. 179 dated January 26, 1981; Service Bulletin No. 129, Revision 4, dated January 26, 1981; and Service Bulletin No. 136, Revision 3, dated January 26, 1981, refer to this subject.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39.2223, 40 FR 21178, AD 75-12-01, as follows:

(1) Add the following paragraphs after the second paragraph of the AD:

Aircraft that have complied with Service Bulletin No. 129, prior to Revision 4 dated January 26, 1981, or Service Bulletin No. 136 prior to Revision 3 dated January 26, 1981, must comply with Service Bulletin No. 179 dated January 26, 1981, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Texas, unless already accomplished. Initial

compliance with the inspection specified in Service Bulletin No. 179 by an appropriate mechanic or repair station is required within 25 hours' time in service after the effective date of this amendment to the AD. When compliance with the repair or strengthening of the supports in accordance with Service Bulletin No. 179, or Service Bulletin No. 129, Revision 4, or Service Bulletin No. 136, Revision 3, has been accomplished, the repetitive inspection of Service Bulletin No. 179 may be discontinued.

In accordance with FAR 21.197, a ferry flight is permitted to a base where the inspection, repair or modification required by this AD may be accomplished.

(2) Change the last paragraph to read as follows:

Copies of these bulletins may be obtained by contacting the Service Manager, Gulfstream American Corporation, 5001 North Rockwell Avenue, Bethany, Oklahoma 73008.

This amendment becomes effective August 9, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89.)

Note.—The FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) nor will it have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves a relatively low cost per aircraft. An evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on July 9, 1981.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 81-21330 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-CE-13-AD; Amendment 39-4167]

Airworthiness Directive; Rockwell International Models NA-265-60, NA-265-70 and NA-265-80 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Rockwell International Models NA-265-60, NA-265-70 and NA-265-80 airplanes and codifies the corresponding emergency AD letter dated June 16, 1981, and identified as AD 81-13-04 into the Federal Register. This AD requires measurement of the inside diameter of the trunnion on the aft side of the main landing gear (MLG) shock strut outer cylinder to determine if an approved part is installed. It further requires replacement of ineligible outer cylinders with an airworthy part (P/N 1127L001-3, -4, -5 or -6 as appropriate) prior to further flight. Use of the ineligible parts could result in failed landing gear because the parts do not meet the strength requirements for the above-listed airplane models.

DATES: Effective date: July 30, 1981, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated June 16, 1981.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Sabreliner Service Bulletin No. 81-4, dated June 11, 1981, pertains to this matter. This Bulletin may be obtained from Rockwell International, Sabreliner Division, Technical Publications, Dept. 732, Perryville Municipal Airport, Perryville, MO 63775; Telephone (314) 543-2212.

FOR FURTHER INFORMATION CONTACT: Marvin D. Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: On April 24, 1981, the right MLG shock strut outer cylinder failed on a Rockwell International Model NA-265-80 airplane. The airplane subsequently made a gear-up landing. During the investigation as to the cause of the outer cylinder failure, it was determined that a P/N 1127L001-2 outer cylinder was installed instead of the approved P/N 1127L001-4 or -6 for the right MLG. The P/N 1127L001-1 and -2 are approved for the basic NA-265-60 model airplane and all earlier lighter models. Further investigation indicated that the mix-up occurred at Menasco, Incorporated, the landing gear vendor during 1974 and 1975, when Rockwell International was producing Models NA-265-40, NA-265-60 and NA-265-80 airplanes simultaneously during these 2 years.

In addition to being ineligible on the NA-265-80 and -70, the 1127L001-1 and -2 outer cylinder is ineligible on NA-265-60 airplanes that have been modified with the Raisbeck conversion. This conversion increases the gross weight. Serial numbers of the modified airplanes are known and are listed in the AD. Use of the ineligible parts could result in failed landing gear because the parts do not meet the strength requirements for the above-listed models. The FAA determined that this was a serious safety hazard, that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, an emergency AD airmail letter dated June 16, 1981, was sent to all known registered owners of the affected airplanes. The AD, which is identified as 81-13-04, sets forth a means for detecting and correcting ineligible outer cylinder installations. AD 81-13-04 became effective to registered owners upon receipt of the airmail letter. Since the unsafe condition described herein may still exist on other airplanes of the models referred to herein, AD 81-13-04 is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Rockwell International: Applies to Models NA-265-60 (S/N 306-5, -6, -12, -16, -24, -47, -50, -71, -73, -81, -109, -116, -119, and -122); NA-265-70 (S/N 370-1 through -9); and NA-265-80 (S/N 380-1 through -72) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished. Reflect this AD compliance by an appropriate entry in the aircraft maintenance records.

(A) Prior to next flight, clean interior of (MLG) shock strut trunnion and measure inside diameter of trunnion from aft side of gear using an internal micrometer. (Ref. Fig. 1 Sabreliner Service Bulletin 81-4, dated June 11, 1981.)

1. If measurement is 2.948 inches or less, return the airplane to service with an appropriate entry in the aircraft maintenance record.

2. If the measurement exceeds 2.948 inches, either replace the outer cylinder with an airworthy part (P/N 1127L001-3, -4, -5, or -6) and return the aircraft to service with an appropriate entry in the aircraft maintenance record, or remove the airplane from service and contact the FAA Aircraft Certification Program Office at telephone (316) 942-4219.

(B) A special flight permit, in accordance with Federal Aviation Regulation (FAR) 21.197 for a flight by the most direct route to a base where maintenance can be performed, is authorized provided a dye penetrant check of the shaded area of the main landing gear shock strut outer cylinder as shown on Figure 1 of Sabreliner Service Bulletin No. 81-4, dated June 11, 1981, is conducted and no cracks are found. If cracks are found, a ferry flight will not be authorized unless the

defective outer cylinder is replaced with an airworthy part (P/N 1127L001–3, –4, –5, or –6). The airplane shall be limited to a maximum gross weight of 20,500 pounds and a landing weight of 17,500 pounds for this special flight.

(C) The owner/operator shall report defects found to the Chief, Aircraft Certification Program at the address shown in Paragraph (D) below, within 48 hours of the inspection. (Reporting approved by the Office of Management and Budget under OMB No. 04–R0174.)

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4285.

Sabreliner Service Bulletin No. 81–4, dated June 11, 1981, pertains to the subject matter of this AD.

This amendment becomes effective on July 30, 1981, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated June 16, 1981, and is identified as AD 81–13–04.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on July 10, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-21330 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 18

[T.D. 81-197]

Domestic Baggage Transported Through Foreign Territory; Customs Form Discontinued

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule deletes a provision of the Customs Regulations, relating to procedures used by Customs and carriers for manifesting domestic baggage transported from one port in the United States to another port via a foreign port or through foreign territory. The use of the special tag manifest, In-Transit Baggage Manifest (Customs Form 7524), on baggage transported on trains on the United States-Canadian border is being discontinued because changes in train traffic patterns have made the use of the special tag manifest unnecessary.

EFFECTIVE DATE: July 23, 1981.

FOR FURTHER INFORMATION CONTACT: Robert W. Schenarts, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5607).

SUPPLEMENTARY INFORMATION:

Background

Frequently, checked baggage of domestic origin is transported from port-to-port in the United States by way of a foreign port or through foreign territory. Section 18.15, Customs Regulations (19 CFR 18.15), provides that upon request of the carrier, a special manifest furnished by the carrier may be completed and attached, under Customs supervision, to each piece of that baggage. For any such baggage transported via a Canadian port or through Canadian territory, a joint United States-Canada in-transit baggage card (Customs Form 7524/Canada Customs Form A–21) is used as the special manifest. The Customs Form 7524 identifies the baggage as being in transit, and allows Customs greater discretion in selecting a particular piece of baggage for inspection.

Representatives of the three Customs regions which have used Customs Form 7524 in the past concur that its use should be discontinued. The San Francisco Region no longer has any train traffic to which the form would be applicable, and its use in the Boston and Chicago Regions has been rare in recent years. The Chicago Region already has discontinued use of the form, and the Boston Region now has no baggage car traffic to which the form would be applicable. The representatives of three regions also have contacted affected carriers about the proposal to eliminate use of Customs Form 7524 and have met with no objections. The form itself has not been printed by Customs for several years.

Canadian Customs does not object to this action because it may continue to use its form(s), or simply examine the baggage.

Accordingly, section 18.15 is deleted.

Notice and Public Procedure Unnecessary

Because this minor amendment involves a matter of internal agency administration and does not impose any additional affirmative duty or burden on the public, but rather, merely simplifies Customs procedure by discontinuing use of an unnecessary form, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis has been prepared.

In addition, it has been determined that the amendment is not subject to the provisions of Pub. L. 96–354, the Regulatory Flexibility Act (5 U.S.C. 601–612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, other Customs personnel participated in its development.

Amendment to the Regulations

§ 18.15 [Removed]

Part 18, Customs Regulations (19 CFR Part 18), is amended by removing § 18.15.

(R.S. 251, as amended, sections 554, 624, 46 Stat. 743, 759 (19 U.S.C. 66, 1554, 1624))

William T. Archey,

Acting Commissioner of Customs.

Approved: July 14, 1981.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 81-21605 Filed 7-22-81; 8:45 am]

BILLING CODE 4810-22-M

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19 CFR Part 151

[T.D. 81-189]

Examination of Cigars, Cigarillos, and Tobacco of Cuban Origin

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations to centralize responsibility for the general supervision of the examination of all imported tobacco which may be of Cuban origin, in the tobacco National Import Specialist at the port of New York.

Previously, tobacco suspected to be of Cuban origin was examined by import specialists at the ports of New York and Tampa.

Customs has determined that to improve the efficiency of service to the public and to utilize fully its personnel resources, centralization of that examination function is necessary.

EFFECTIVE DATE: August 24, 1981.

FOR FURTHER INFORMATION CONTACT: George Pinto, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION:

Background

The Cuban Assets Control Regulations issued by the Office of Foreign Assets Control, Department of Treasury (31 CFR 515.201-515.801), prohibit the unlicensed importation of all goods of Cuban origin, all goods imported from or through Cuba, and also the unlicensed importation of merchandise derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

Accordingly, in the early 1960's, Customs developed and issued regulations (present § 151.111, Customs Regulations (19 CFR 151.111)), and operational guidelines designed to prevent the unlicensed importation of cigars, cigarillos, and tobacco, which may be made or derived in whole or in part of Cuban articles, or which may be of Cuban origin.

From the inception of Customs program to implement the provisions of the Cuban Assets Control Regulations, general supervision of the examination of all *cigars* or *cigarillos* suspected of being Cuban articles has been the responsibility of the tobacco import specialist at the port of New York, regardless of the actual U.S. port of importation (section 151.111(a)).

However, § 151.111(b) divided the responsibility for the general supervision of the examination of *tobacco* suspected to be of Cuban origin between the tobacco import specialist at New York and the tobacco import specialist at Tampa, Florida. Supervision of imports of such tobacco occurring in Customs Regions I (Boston), II (New York), III (Baltimore), and IX (Chicago) was assigned to New York, while Tampa supervised examination of such tobacco imported in Regions IV (Miami), V (New Orleans), VI (Houston), VII (Los Angeles), and VIII (San Francisco).

That system of dividing operational responsibility for a commodity between two import specialists is unique in Customs. Headquarters and Regional surveys have uniformly agreed that the present procedures relative to those tobacco importations are contrary to good management principles and do not result in optimum utilization of available import specialist resources. As a result, it has been decided to amend § 151.111 as set forth below to centralize responsibility for examination of tobacco which may be of Cuban origin in the tobacco National Import Specialist at the port of New York. The Tampa position will be used for normal import specialist functional responsibilities within the Tampa Customs District alone.

Notice of Proposed Rulemaking Unnecessary

Because this minor amendment involves a matter relating solely to agency personnel management, pursuant to 5 U.S.C. 553(a)(2), notice and public procedure thereon are unnecessary.

Executive Order 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis has been prepared.

In addition, it has been determined that the amendment is not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Information Division, Office of Regulations and Rulings, U.S. Customs Service. However, other Customs personnel participated in its development.

Amendment to the Regulations

Part 151, Subpart I, Customs Regulations (19 CFR Part 151, Subpart I), is amended by revising § 151.111 to read as follows:

§ 151.111 Cigars, cigarillos, and tobacco of Cuban origin.

The tobacco National Import Specialist at the port of New York shall have general supervision of the examination of (a) all cigars or cigarillos which may be made or derived in whole or in part of Cuban articles, and (b) all tobacco which may be of Cuban origin.

(R.S. 251, as amended, sections 499, 624, 46 Stat. 728, as amended, 759 (19 U.S.C. 66, 1499, 1624))

William T. Archey,

Acting Commissioner of Customs.

Approved: July 9, 1981.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 81-21606 Filed 7-22-81; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

26 CFR Part 1

[T.D. 7784]

Income Tax; Definition of a Private Foundation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the definition of a private foundation. Changes to the applicable tax law were made by Pub. L. 94-81, enacted August 9, 1975. The regulations affect certain tax-exempt organizations seeking to qualify as other than private foundations which acquire unrelated trades or businesses after June 30, 1975. The regulations provide such organizations with guidance necessary to determine whether they qualify as other than private foundations.

DATES: The regulations are effective for taxable years ending after June 30, 1975.

FOR FURTHER INFORMATION CONTACT:

Samuel E. Berger of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3544, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On October 10, 1980, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507 and 509 of the Internal Revenue Code of 1954 were published in the **Federal Register** (45 FR 67360). The amendments were proposed to conform the regulations to section 3 of the Act of August 9, 1975 (Pub. L. 94-81, 89 Stat. 418). No comments concerning the proposed regulations were received. No Public hearing was requested or held.

Explanation of Provisions

Prior to the amendment of section 509 (a)(2)(B) of the Internal Revenue Code of 1954, an organization which normally received not more than one-third of its annual support from gross investment income could, if it satisfied the other support requirements of section 509(a)(2), qualify as other than a private foundation. Gross investment income includes, generally, interest, rents, dividends and royalties. The amendment to section 509(a)(2)(B) provides that income from an unrelated trade or business acquired by the organization after June 30, 1975 (less any tax imposed by section 511 on such income), is to be treated like gross investment income in determining whether an organization meets the test under section 509(a)(2)(B).

Drafting Information

The principal author of these proposed regulations is Samuel E. Berger of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations. The proposed amendments to 26 CFR Part 1, as set forth in the notice of proposed rulemaking in the **Federal Register** on October 10, 1980 (45 FR 67360), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 26, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

§ 1.507-2 [Amended]

Paragraph 1. Paragraph (c)(1)(iv)(A) of § 1.507-2 is amended by removing the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

Par 2. Section 1.509(a)-3 is amended as follows:

1. Paragraph (a)(1) is amended by adding the heading *"General rule."* and removing the words "one-third gross investment income" in the second sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (a)(2) is amended by adding the heading *"One-third support test."*

3. Paragraph (a)(4) is amended by adding the heading *"Purposes."* and removing the words "one-third gross investment income" and inserting in lieu thereof "not-more-than-one-third support".

4. Paragraph (c)(1)(i) is amended by removing the words "gross investment income" in the second sentence wherever it appears and inserting in lieu thereof "items described in section 509(a)(2)(B)".

5. Paragraph (c)(1)(iii)(*a*) is amended by removing the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

6. Paragraph (c)(3) is amended by removing the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by removing the words "of gross investment income" in the fourth sentence and inserting in lieu thereof "described in section 509(a)(2)(B)".

7. Paragraph (c)(6) is amended by removing the words "gross investment income referred to" in the third sentence of example 1 and inserting in lieu thereof "items described" and by removing the words "gross investment income" in the fourth sentence of example 1 and inserting in lieu thereof "items described in section 509(a)(2)(B)".

8. Paragraph (d)(2) is amended by removing the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by removing the words "gross investment income" from the second sentence and inserting in lieu thereof "items described in section 509(a)(2)(B)".

9. Paragraph (d)(3)(iii) is amended by removing the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

10. Paragraph (e)(4)(i)(*f*) is amended by removing the words "gross investment income" from the second, third, fourth and second sentences of examples 1, 2, 3, and 4 respectively and inserting in lieu thereof "not-more-than-one-third support".

11. Paragraph (a)(3) is revised to read as follows:

§ 1.509 (a)-3 Broadly, publicly supported organizations.

(a) * * *

(3) *Not-more-than-one-third support test*—(i) *In general.* An organization will meet the not-more-than-one-third support test under section 509(a)(2)(B) if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from the sum of its gross investment income (as defined in section 509(e)) and the excess (if any) of the amount of its unrelated business taxable income (as defined in section 512) derived from trades or businesses which were acquired by the organization after June 30, 1975, over the amount of tax imposed on such income by section 511. For purposes of this section the amount of support received from items described in section 509(a)(2)(B) will be referred to as the numerator of the not-more-than-one-third support fraction, and the total amount of support (as defined in section 509(d)) will be referred to as the denominator of the not-more-than-one-third support fraction. For purposes of section 509(a)(2), paragraph (m) of this section distinguishes gross receipts from gross investment income.

(ii) *Trade or business.* For purposes of section 509(a)(2)(B)(ii), a trade or business acquired after June 30, 1975, by an organization shall include, in addition to other trades or businesses:

(A) A trade or business acquired after such date from, or as a result of the liquidation of, an organization's subsidiary which is described in section 502 whether or not the subsidiary was held on June 30, 1975.

(B) A new trade or business commenced by an organization after such date.

(iii) *Allocation of deductions between businesses acquired before, and businesses acquired after, June 30, 1975.* Deductions which are allowable under section 512 but are not directly connected to a particular trade or

business, such as deductions referred to in paragraphs (10) and (12) of section 512(b), shall be allocated in the proportion that the unrelated trade or business taxable income derived from trades or businesses acquired after June 30, 1975, bears to the organization's total unrelated business taxable income, both amounts being determined without regard to such deductions.

(iv) *Allocation of tax.* The tax imposed by section 511 shall be allocated in the same proportion as in paragraph (a)(3)(iii) of this section.

* * * * *

§ 1.509(a)–4 [Amended]

Par. 3. Paragraph (k)(2) of § 1.509(a)–4 is amended by removing the words "gross investment income" in the third and sixth sentences of the example and inserting in lieu thereof "items described in section 509(a)(2)(B)".

§ 1.509(a)–5 [Amended]

Par. 4. Section 1.509(a)–5 is amended as follows:

1. Paragraph (a)(1) is amended by removing the words "gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (b)(1) is amended by removing the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

3. Paragraph (c) is amended by removing the words "one-third gross investment income" and inserting in lieu thereof "not-more-than-one-third support".

[FR Doc. 81-21593 Filed 7-22-81; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 6a

[T.D. 7780]

Mortgage Subsidy Bonds; Temporary Income Tax Regulations

Corrections

In FR Doc. 81–19338 appearing on page 34311 in the issue of Wednesday, July 1, 1981, make the following changes:

1. On page 34314, first column, third paragraph, first line, "* * § 1.103A–" should read "* * § 6a.103A–"; and in the second column, § 6a.103A–1 (a)(3), third line, "* * § 1a.103A–3 * * *" should read "* * § 6a.103A–3 * * *".

2. On page 34318, first column, § 6a.103A–1 (c)(2), last line, "* * § 1.103A–1 * * *" should read "* * § 6a.103A–1 * * *"; third column, § 6a.103A–1 (d)(3), second line, "* * § 1.103A–1 * * *" should read "* * § 6a.103A–1 * * *".

3. On page 34319, first column, § 6a.103A–1 (e)(2)(iii), second line should read as follows: "(as defined in § 6a.103A–2(b)(10))."

4. On page 34325, first column, § 6a.103A–3 (f), twelfth line, "basis * * *" should read "basic * * *".

BILLING CODE 1505-01-M

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26 CFR Part 31

[T.D. 7783]

Employment Taxes; Interest-Free Adjustment With Respect to Erroneous Filing of FICA and RRTA Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations permitting an interest-free adjustment in certain circumstances where an employer erroneously either files a Federal Insurance Contributions Act (FICA) tax return instead of a Railroad Retirement Tax Act (RRTA) return, or files a RRTA tax return instead of a FICA tax return. The amendment affects employers required to deduct and withhold either FICA tax or RRTA tax.

EFFECTIVE DATE: The regulations are effective on July 23, 1981.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1980, the **Federal Register** published a proposed amendment to the Employment Tax Regulations (26 CFR Part 31) under section 6205 of the Internal Revenue Code of 1954 (45 FR 63879). The amendment was proposed to clarify the regulations under section 6205 of the Code. No public hearing was requested or held. No public comment concerning this amendment was received. Accordingly, the amendment is adopted by this Treasury decision as proposed.

Explanation of Provisions

The Employment Tax Regulations presently provide that if an employer has filed a return, and if no employment tax, or less than the correct amount of tax upon employees' wages or compensation under either the Federal Insurance Contributions Act or the Railroad Retirement Tax Act has been reported on the return and paid, the employer may, in certain circumstances, make an interest-free adjustment of such underpayment. The amendment adds a new provision to make clear that an employer who has erroneously filed Form 941 and paid FICA tax on an employee's wages rather than filing Form CT–1 and paying RRTA tax, or vice versa, under certain circumstances, may make such an interest-free adjustment if he timely pays and reports the adjustment in accordance with § 31.6205–1(b)(2)(iii).

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Drafting Information

The principal author of these regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, the regulations proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) published as a notice of proposed rulemaking in the **Federal Register** for September 26, 1980 (45 FR 63879), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in sections 6205 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 768, 917; 26 U.S.C. 6205, 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: July 1, 1981.

John E. Chapoton,
Assistant Secretary of the Treasury.

Paragraph (b)(2) of § 31.6205–1 is amended by adding a new subdivision (iii) immediately after subdivision (ii) to read as follows:

§ 31.6205–1 Adjustments of underpayments.

* * * * *

(b) *Federal Insurance Contributions Act and Railroad Retirement Tax Act.* * * *

(2) *Underpayment ascertained after return is filed.* * * * (iii) If a return relating to tax under the Federal Insurance Contributions Act is filed

although a return relating to tax under the Railroad Retirement Tax Act was required to be filed, or vice versa, and if the amount reported on the return filed and paid to the district director was less than the correct amount which should have been reported on the return required to be filed, the employer shall adjust the underpayment by reporting the additional amount due on an original return for the correct tax for the return period in which the payment of wages or compensation was made, accompanied by an explanation of the adjustment being reported. The reporting of such additional amount on an original return constitutes an adjustment within the meaning of this section only when the original return is filed on or before the last day on which the return for the correct tax is required to be filed for the return period in which the error is ascertained. The amount of each underpayment adjusted in accordance with this subdivision shall be paid to the district director, without interest, at the time fixed for reporting the adjustment. If an adjustment is reported pursuant to this subdivision, but the amount thereof is not paid when due, interest thereafter accrues (see section 6601).

* * * * *

[FR Doc. 81-21589 Filed 7-22-81; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004M]

Occupational Exposure to Lead, New Trigger Levels for Medical Removal Protection; Denial of Petitions for Stays; Notice of Variance Applications; Interim Orders

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: Denial of petitions and notice of variance applications and interim orders.

SUMMARY: OSHA hereby denies petitions by the primary and secondary lead smelting industries for one-year, industry-wide stays of the new trigger levels for medical removal protection (MRP) under the lead standard (29 CFR 1910.1025(k)). The new triggers thus will take effect for lead smelters on July 21, 1981. OSHA also hereby denies the lead battery manufacturers' petition for reconsideration of OSHA's earlier denial of its request for an industry-wide stay. These actions are taken because data submitted by industry were insufficient to justify granting industry-wide stays.

The data did, however, show serious and potentially serious problems of compliance with the new triggers in certain smelting and battery manufacturing plants. As a result, conditioned upon OSHA receiving by August 3, 1981, for each such plant a variance application, certification of notice to affected employees, and written acceptance of the requirements of the Order, the Agency is granting interim orders under section 6(b)(6)(A) of the OSHA Act to those lead smelting and battery manufacturing plants that have supplied data sufficient to establish the need for relief. The interim orders relieve those facilities from having to comply with the 60/40 removal return triggers, but obligate them to comply with the 70/50 triggers, all other provisions of the lead standard, and certain other requirements set out in the Interim Order. OSHA also invites other eligible lead smelting and battery manufacturing plants, including those that have submitted data but have not been granted an Interim Order via this notice, if they choose, to apply individually for temporary variances. Finally, OSHA requests every applicant to submit particular data needed by the Agency to determine whether to issue a temporary variance, and invites public comment on the variance requests.

DATES: The effective date of the new trigger levels (29 CFR 1910.1025(k) originally published on November 14, 1978 at 43 FR 53007) for primary and secondary smelters is July 21, 1981.

For all companies conditionally granted interim orders, variance applications, written acceptances and certifications must be received by August 3, 1981. All data requested herein by OSHA in support of each application for a temporary variance must be received by September 1, 1981. The last date for interested persons to submit comments on the variance applications is September 30, 1981. The last date for affected employers and employees to request a hearing on the applications is September 30, 1981.

ADDRESSES: Send applications, submissions, comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3662, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: (202) 523-7144.

SUPPLEMENTARY INFORMATION:

A. Background

On March 3, 1981, OSHA published a notice in the **Federal Register** (46 FR 14897) delaying the effective date of the new removal and return trigger levels for medical removal protection (MRP) from March 1, 1981, as specified in the standard on occupational exposure to lead (29 CFR 1910.1025(k), November 14, 1978, 43 FR 53007) to April 1, 1981. That notice summarized the provisions of MRP and explained the need in the standard for progressively phased-in blood-lead levels triggering employee removal from, and subsequent return to, lead-exposed jobs. The notice also explained that the delay was granted as an interim measure in response to applications from certain employers and industry groups representing several lead industries for a one-year delay in the effective date of the new trigger levels. In the notice, interested persons were invited to submit information and views on all issues involved in the applications.

In support of their request for a stay of the 60 μg/100g removal and 40 μg/100g return triggers, the lead industries allege that implementation of the new trigger levels is infeasible. Essentially, industry makes a four-pronged feasibility argument: (1) The 60/40 triggers will require for the first time the removal of many "supervisory" and "highly skilled" employees, whose blood-lead levels allegedly tend to fall in the 60–70 μg/100g range; (2) their removal will be prolonged beyond OSHA's original expectations in order for their blood leads to drop to the 40 μg/100g return level; (3) since these employees are highly paid, crucially positioned, and extremely difficult to replace, putting them on MRP not only will be costly but also can result in reduced production and a less safe and healthful workplace; and (4) the 60/40 triggers will require the removal of many production workers as well, thus adding to the cost of MRP. In combination, these factors assertedly will make implementation of the new triggers infeasible.

Since industry's allegations raised serious questions concerning the feasibility of the new trigger levels and what relief, if any, would be appropriate, the March 1, 1981, effective date of the new triggers was delayed for all lead industries until April 1, 1981, to enable the Agency to obtain and consider additional evidence.

To facilitate this process, OSHA in a letter dated March 5, 1981, specifically requested certain information from the lead industries. That request

subsequently was included in a notice (46 FR 16974) further deferring the effective date to May 1, 1981, in which OSHA again invited all interested persons to submit information and views on any issues involved in the request for the one-year delay in the effective date of the new MRP trigger levels. The record was open until April 15, 1981, for the receipt of these submissions.

Comments opposing a delay of the effective date of the new trigger levels, mostly from unions, were received. The unions agreed generally on the following points: (1) That the original lead industry petition provided an inadequate factual and legal basis for either an industry-wide stay or a stay to individual plants; and (2) that temporary relief for individual plants which documented the infeasibility of applying the new trigger levels should be granted by means of the temporary variance procedure.

On May 1, 1981, for primary and secondary smelters only, OSHA again delayed the effective date of the new triggers. In granting that additional delay, OSHA explained that more time was needed to complete its analysis of the complex submissions of data by the lead smelters and to determine the appropriate relief. Since no significant evidence justifying relief had been presented to OSHA by companies or trade associations in the other lead industries, the Agency indicated that the new triggers would take effect with regard to those industries on May 15, 1981 (46 FR 24558). After this decision, OSHA received from the Battery Council International (BCI) a petition for reconsideration of OSHA's denial of an industry-wide stay for the battery industry, or, in the alternative, for temporary variances for named members of BCI, some of whom supplied supporting data.

The effective date applying the 60/40 triggers to primary and secondary lead smelters was further delayed by OSHA from June 1 to July 1, 1981, to allow the Agency more time to complete its efforts to fashion appropriate relief for the smelting industries while at the same time providing necessary protection to employees (46 FR 28845). Finally, to give the Agency time to prepare and publish the decision documents, that effective date was deferred to July 21, 1981 (46 FR 33516).

B. OSHA's Analysis of the Primary and Secondary Smelting Record

Submissions by the lead smelting industries include summary memoranda; raw data covering individual employee blood-lead levels, dates and lengths of MRP removals, and air-lead levels; information on respirator usage and in-plant environmental improvements; statistical analyses predicting the length of removal time needed to reduce blood leads from 60 to 40 μg/100g; and various recommendations. Analyzable data were submitted by all of the 8 primary smelters and by 8 of the approximately 55 secondary smelters.

OSHA's analysis of the evidence in the record yields the following general conclusions:

(1) Among primary smelters, the number of anticipated removals at the 60 trigger ranges from 2% to 12% of the total workforce. When subdivided into categories of "supervisory and skilled" and "unskilled" employees, the range among plants is from 2% to 15% for supervisory and skilled employees; and from 2% to 14% for unskilled.

(2) Among secondary lead smelters that submitted analyzable data, the number of anticipated removals at the 60 trigger ranges from 14% to 40% of the total workforce. When subdivided into categories of "supervisory and skilled" and "unskilled" employees, the range among plants is from 13% to 49% for supervisory and skilled; and from 6% to 37% for unskilled.

(3) Based upon MRP data submitted by primary smelters, OSHA estimated the length of medical removal time under the 60/40 triggers for removed workers to drop from a mean blood-lead level of 65 μg/100g to 40 μg/100g as follows: For 50% of removed workers to return is expected to take from 1.8 to 3.5 months; for 80% to return is expected to take from 3.1 to 7.3 months. These estimates, representing OSHA's best scientific judgment, admittedly are based upon extrapolations from data reflecting industry's experience with the 80/60 and 70/50 triggers, rather than upon data drawn from direct experience with blood-lead dynamics below 50 μg/100g. Industry disputes these estimates, claiming that for long-term workers with body burdens built up over many years the rate at which blood-leads drop slows dramatically below 50 μg/100g.

(4) The data in the record are too sparse either to substantiate or refute industry claims that substantial numbers of removable employees are, in practical terms, irreplaceable.

(5) The data in the record are too sparse to draw firm conclusions concerning the long-term economic impact of the costs attributable to the 60/40 triggers on either the primary or secondary smelting industry.

C. Conclusions Drawn by OSHA From the Primary and Secondary Smelting Record

Based upon its analysis, OSHA cannot conclude that the potential removal and return problems faced by individual primary and secondary smelters in complying with the 60/40 triggers constitute industry-wide infeasibility to comply with those triggers. Many smelters submitted no data; others submitted data insufficient to support a finding of industry-wide infeasibility. The petitions for industry-wide stays, therefore, are denied. Except as set forth below, the effective data of the new triggers for the primary and secondary smelting industries is July 21, 1981.

Feasibility problems do, however, appear to exist on a plant-by-plant basis in both industries. In the secondary lead smelting industry, for example, most facilities submitting data appear to have severe problems in coming into compliance with the new triggers. In some cases, such as Gopher Smelting and Refining Company, which will have to remove approximately 47% of its supervisory and skilled employees under the 60 trigger, numbers alone suggest the extreme dimensions of the problem. In other cases, a combination of various factors may establish the need for relief.

Given that need, OSHA intends to use the temporary variance mechanism, set out in Section 6(b)(6)(A) of the OSHA Act and covered by regulations in 29 CFR Part 1905, to afford relief, if appropriate, on a plant-by-plant basis. For those plants that already have submitted data indicating feasibility problems, OSHA is granting interim orders under Section 6(b)(6)(A). The issuance of each Order is conditioned upon OSHA's receipt by August 3, 1981, of an application for a temporary variance, a certification of notice to affected employees, and a written acceptance of the requirements of the Interim Order for each such plant.

For those plants whose data submissions are inadequate, no interim relief is granted. Primary and secondary smelting plants that have not been granted interim relief at this time and those that have not yet submitted data may apply for a temporary variance and submit all required supporting data by September 1, 1981. Such applicants then will become eligible for an interim order, pending final disposition of each variance request.

D. OSHA's Analysis and Conclusions From Data Submitted by the Lead Battery Manufacturing Industry

Based upon analyzable data submitted by 17 of the 27 named members of the Battery Council International after the record had closed, OSHA's analysis yields the following general conclusions:

(1) Among battery manufacturing plants, the number of anticipated removals at the 60 trigger ranges from 1% to 65% of the total workforce, with broadly comparable ranges for supervisory and skilled employees and for unskilled employees.

(2) The evidence concerning the estimated length of removal time, irreplaceability of removable employees, and long-term economic impact of costs attributable to the 60/40 triggers on the lead battery manufacturing industry is virtually the same as the evidence presented by the lead smelting industries.

Based upon this analysis, OSHA cannot conclude that potential removal and return problems which individual battery manufacturing plants face in complying with the 60/40 triggers constitute industry-wide infeasibility to comply with those triggers. BCI's petition for a reconsideration of OSHA's denial of its earlier request for an industry-wide stay is therefore denied.

As indicated above, however, feasibility problems do appear to exist on a plant-by-plant basis within the lead battery industry. In Miami Battery & Electric, for example, 6 of 6 skilled workers will have to be removed under the 60 trigger. In such extreme cases, the numbers alone manifest the severity of the problem. In other cases, a combination of various factors may establish the need for relief. Given that need, OSHA intends to use the temporary variance mechanism to grant plant-by-plant relief within the battery industry in the same way and under the same conditions as in the primary and secondary lead smelting industries.

Notice of Application and Interim Order

In accordance with the requirements of 29 CFR 1905.14(b), OSHA hereby gives notice that: (1) The primary and secondary lead smelting and lead battery manufacturing companies listed below have applied for temporary variances from 29 CFR 1910.1025 (k)(1)(i)(C) and (1)(iii)(A)(3) of the lead standard; (2) their documented request for relief is based upon alleged inability to comply fully with the standard arising from the anticipated removal and consequent unavailability of certain employees under the 60/40 triggers for MRP; (3) the said companies are conditionally granted interim orders on a plant-by-plant basis, as authorized by 29 CFR 1905.10(c); (4) all interested persons are invited to submit before September 30, 1981, written data, views or arguments regarding any such application; and (5) affected employers, employees and appropriate State authorities having jurisdiction over the said plants are apprised of their right to request a hearing on an application by no later than September 30, 1981.

Interim Order

Interim orders are being issued to the following companies on an individual plant basis to enable each to prove its need for a temporary variance. The orders are issued conditioned upon OSHA's receipt by August 3, 1981, from each company of the following:

(1) Application for a temporary variance and interim order for a particular plant;

(2) Written acceptance of the conditions and requirements, enumerated below, of the Interim Order; and

(3) Certification that employees who would be affected by a variance have been notified of the application, by the employer's giving copies of it to their authorized employee representative and by the employer's posting copies at all places where notices to employees normally are posted, and also have been informed of their right to petition the Assistant Secretary for a hearing.

Primary Smelters

Bunker Hill—Idaho Plant
St. Joe, Missouri Plant
ASARCO, Glover Plant
ASARCO, East Helena Plant
ASARCO, Whiting Plant
ASARCO, Omaha Plant

Secondary Smelters

Gopher Smelting and Refining Co., Minnesota
Ross Metals, Inc.
Sanders Lead Company, Alabama
Tonolli Corp. Nesquehoning
Houston Lead Co., Texas
Chloride Metals—Tampa
Chloride Metals—Columbus
Chloride Metals—Florence

Battery Manufacturers

Mule Emergency Lighting, Inc., Cranston, RI
East Penn Manufacturing Co., Inc., Lyon Station, PA
Crown Battery Manufacturing Company, Frenost, OH
Miami Battery and Electric Corp., Miami, FL
New Castle Battery Co., New Castle, PA
Standard Industries, San Antonio, TX
Standard Storage Battery Co., St. Paul, MN
Surrrette Battery, Tilton, NH
Estee Battery Co., Commerce, CA
Meekan Battery Co., S. San Francisco, CA
Pico Battery Manufacturing Co., San Francisco, CA

Other Industries

Oxide and Chemical Corp., Indianapolis, IN
Oxide and Chemical Corp., Memphis TN
Associated Lead, Inc., Philadelphia, PA
Associated Lead, Inc., Brooklyn, NY

A. Summary and Rationale

In granting interim orders for certain plants and denying them for others, OSHA has decided to apply a rule of decision that it developed from its analysis of the record: Plants where 10 percent or more of the total lead-exposed supervisory and maintenance employees would have to be removed because of blood-leads between 60–70 μg/100g are considered to merit relief and hence be entitled to an Interim Order. Plants where less than 10% would have to be removed are, at the present time, denied interim orders.

The 10% figure thus is treated as the rough boundary line of feasibility. Although no particular percentage can be proven to precisely demarcate the line between feasibility and infeasibility, record data and discussions with both industry and labor support the conclusion that the limits of feasibility are in the vicinity of 10%. The United Steelworkers of America, for example, in its Supplemental Memorandum suggests generally that "plants where the proportion of skilled/supervisory workers with blood leads between 60–70 μg/100g is 10 percent or more merit relief through a one-year temporary variance * * *." Similarly, representatives of the secondary lead smelting industry stated that a plant can feasibly remove between 5% to 10% of its employees.

OSHA is using the 10% figure only as a rule of thumb to grant interim relief at this time. The percentage alone will not necessarily determined whether a temporary variance ultimately will be issued. Plants below the 10% figure may still show by compelling evidence that relief is needed. Conversely, even a plant with 10% or more of its supervisory/maintenance employees subject to removal because of the 60 trigger might fail to establish the need for a temporary variance.

Where granted, the Interim Order temporarily relieves the affected employer from compliance with the 60/40 triggers but requires the employer to continue to comply with the 70/50 triggers. The relief is conditioned upon the employer's ongoing compliance with all other provisions of the lead standard and all the conditions of the Order. The interim order will be in effect from the date of publication of this notice until a final decision is rendered by OSHA on

the application for a temporary variance.

The primary purpose of the additional conditions contained in the interim order is to provide some protection for employees with elevated blood-lead levels between 60–70 μg/100. These employees, in the absence of the relief granted herein to employers, would have been protected from continued occupational exposure to lead by the requirement that they be removed until their blood-leads had dropped to 40 μg/100g. Because the Order temporarily denies employees that particular form of protection, OSHA, in fulfillment of its statutory obligation under Section (6)(b)(6)(A) of the OSHA Act, has designed a combination of other forms of protection to "safeguard * * * employees against the hazards covered by the standard * * *".

Generally, OSHA seeks by means of these conditions to enhance the level of protection afforded by other provisions of the lead standard pertaining to medical examinations and consultations, respirator usage, zinc protoporphyrin (ZPP) tests, and the like. OSHA bases its decision upon the extensive record on lead compiled in developing the lead standard, including the record compiled in conjunction with the MRP petitions.

Specifically, OSHA sets the following requirements in the interim order for the following reasons.

(1) The Order requires that employers perform blood-lead and ZPP tests bi-monthly on all employees with blood-leads over 40 μg/100g who are exposed to lead above the 30 μg/m³ action level. This requirement imposes no additional burden upon employers. Section 1910.1025(j)(2) of the lead standard presently requires such monitoring. OSHA includes it in this Order to remind employers that the requirement for ZPP tests no longer is judicially stayed.

(2) The Order requires that employers remove an employee with blood-leads over 70 μg/100g to areas where lead exposure is below 30 μg/m³, and return the employee when his/her blood-lead is at or below 50 μg/100g. Removal and return at 70/50 simply extends the second year triggers during the relief period. Requiring removal to places where exposures are below 30 μg/m³ affords some of the protection to removed employees that would be provided by the 60/40 triggers.

(3) The Order also requires that employers provide for a consultation every 2 months and a comprehensive medical examination every 6 months for employees with blood-leads between 60–70 who are exposed at or above the action level but are not being removed from exposure. Section 1910.1025(j)(3) requires medical examinations and consultations at least once a year for any employee whose blood sample tests during the preceding 12 months indicate blood-leads at or above 40 μg/100g. Since by this Order some employees with blood-lead levels in excess of 60 will be subjected to continuing exposure to air-lead levels above 30 μg/m³, more frequent medical examinations and consultations are required to monitor their health to prevent increased risk of material impairment. Based upon its expertise, the Agency has concluded that two medical examinations and four additional consultations with a doctor per year will provide reasonable and not unnecessarily burdensome safeguards.

(4) The Order further requires that the examining or consulting doctor make a written determination as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. Section 1910.1025(k)(1)(ii) of the lead standard already requires removal of an employee from lead exposure at or above 30 μg/m³ on each occasion that a final medical determination indicates the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. To maximize the preventive effect of the more frequent medical consultations and examinations required by this Order, OSHA is requiring written determinations after each such visit.

(5) The Order requires full-shift respirator usage for employees with blood-lead levels at or above 60 μg/100g who are working in areas with air-lead levels at or above 30μg/m³. Employees with such elevated blood-lead levels, who would be removed but for this Order, require increased protection from exposure to lead. Since engineering controls cannot generally be rapidly implemented, stricter requirements for the duration of respirator use is one means to increase employee protection.

(6) The Order requires that employers make special inspections and evaluations of employees with blood-lead levels at or over 60 who need not be removed under this Order, and to take short-term corrective steps to reduce employee lead absorption through work practices, respirator usage, use and availability of hygiene facilities and personal hygiene habits. Such small corrections can be made relatively easily with noticeable health benefit to affected employees.

(7) The Order requires that the employer agree to OSHA inspections related to its variance application. OSHA, in granting variance relief, must be assured that it can readily monitor compliance with these conditions of the relief.

(8) Finally, the Order requires that employers complete their temporary variance application (in original and six copies) and required data submissions by September 1, 1981, as a condition for the continuance of interim relief. The data the Agency requests is necessary for OSHA to make a final determination of whether individual plants need relief and to evaluate the compliance problems likely to occur during any period of interim and final relief.

B. The Order

Pursuant to the authority in Section (6)(b)(6)(A) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No. 8–76 (41 FR 29059), and in 29 CFR Part 1905, it is ordered that all plants listed above are authorized to comply with the requirements of the Interim Order set forth below, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(1)(i)(C) and 1910.1025(k)(1)(iii)(A)(3). All other provisions of the lead standard are unaffected by this Order and therefore must be complied with in conjunction with the terms of this Order.

The terms of the Interim Order are as follows:

(1) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood-lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood-lead level at or above 40 μg/100g and who is exposed to lead above the action level of 30 μg/m³.

(2) Employers shall remove and return all employees with blood-lead levels at or above 70 μg/100g in accordance with the provisions of Sections 1910.1025(k)(1)(i)(B) and 1910.1025(k)(1)(iii)(A)(2) of the lead standard, except that removal shall be to areas where lead exposure is below 30 μg/m³.

(3) For employees with blood-lead levels between 60–70 μg/100g, who work in jobs having airborne lead exposure at or above 30 μg/m³, the employer shall provide:

(a) A personal consultation with a licensed physician every two months; and

(b) A comprehensive medical examination by a licensed physician every six months.

(4) After both the personal consultation and the comprehensive

medical examination, the physician shall make a written determination as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 $\mu g/m^3$.

(5) For employees with blood-lead levels at or above 60 $\mu g/100g$ who are working in areas with air-lead levels at or above 30 $\mu g/m^3$, respirator usage shall be mandatory during the entire workshift.

(6) For all employees with blood-lead levels at or above 60 u$\mu g/100g$ who need not be removed under the terms of this Order, the employer shall make an immediate inspection and evaluation of:

(a) The lead-related work practices affecting the employee;

(b) The employee's respirator usage; and

(c) The use and availability of hygiene facilities, and the employee's relevant personal hygiene habits.

Based on that inspection and evaluation, the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead.

(7) The employer shall agree to allow OSHA to inspect its premises in connection with this variance application and this Interim Order.

(8) Employers who herein have been granted interim orders, and employers who may in the future apply for similar orders and temporary variances, shall, by September 1, 1981, submit the data requested below. A failure to provide the required data by that date will result in the automatic expiration of the interim order or the denial of a request for such an order.

C. Data Request

To permit speedy determination by OSHA, the following data must be submitted in the form and sequence set out below for each plant:

(a) Blood-lead, air-lead, and, if available, ZPP data for the past 12 months for each employee exposed to lead above the 30 $\mu g/m^3$ action level. Employee identification may be coded, but job classification must be stated.

(b) The name and address of the laboratory performing the blood analyses.

(c) A copy of the safety and health program presently administered and enforced by the employer at the plant. This program shall include, but not be limited to, descriptions of: (i) Engineering and administrative controls; (ii) work practices; (iii) personal protective clothing; (iv) hygiene measures; (v) housekeeping measures; (vi) training and education; and (vii) medical surveillance program.

(d) A statement of when the applicant expects to be able to comply with the 60/40 triggers and of what additional steps it has taken and will take to come into compliance with those triggers by March 1, 1982. The statement shall include an initial list of engineering controls that may be necessary and an outline of the written compliance program for engineering controls required by 29 CFR 1910.1025(e)(3), including the projected dates for the development and implementation of such controls.

(e) A copy of the existing written respirator program, which shall include details on respirator cleaning and maintenance and employee comfort and acceptance, as required by § 1910.1025(f) of the lead standard.

(f) A statement as to whether any citations, pending or in the process of abatement, for lead-related violations of Federal or State standards have been issued to the employer. Identify the citation(s) and provide a copy of any abatement plan(s).

(g) A specific analysis of any adverse safety and health consequences of removing supervisory and maintenance employees who have blood-lead levels between 60–70 $\mu g/100g$.

(h) The following information regarding supervisory and/or maintenance employees whose removal the employer claims is infeasible:

(i) The number, location(s), and job classification(s) of such removable employees;

(ii) The total number, location(s) and job classification(s) of all employees in the particular work area, operation or process referred to in the employer's answer to (i), above;

(iii) The extent to which the employees to be removed are replaceable and a concrete description of the problems (e.g., training time, costs, etc.) anticipated in replacing them;

(iv) The specific reasons why any of the employees to be removed are irreplaceable;

(v) The number of positions available for transferring employees who would be removed; and

(vi) Alternate proposals that have been considered for production planning and shift changes to reduce and eliminate potential lead exposures.

(i) Regarding production workers whose removal the employer claims is infeasible, the same information requested in paragraphs (g) and (h) above.

The above-listed companies shall give notice of this grant of Interim Order to employees affected thereby by the same means required to be used to inform them of the applications for variance. This Interim Order shall become effective on July 21, 1981.

The Assistant Secretary may revoke this Order at any time if the applicant does not comply with any requirement of the Order or the relevant standards, or if other information indicates that revocation of the Interim Order is warranted. Unless revoked, the Interim Order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C., this 20th day of July 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-21706 Filed 7-21-81; 3:55 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Olympic National Park, Washington State; Hunter Access Routes

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On July 2, 1980, the National Park Service published in the **Federal Register** (45 FR 44969) a proposed regulation to abolish hunter access routes and special hunting camps within the Queets Corridor and the Pacific Coast Area of Olympic National Park, Washington. Regulations currently found in 36 CFR 7.28 (b)(2) and (d) allow for the establishment of camping areas and the designation of access routes in these areas, during the State authorized open hunting seasons for deer and elk, for the purpose of hunting outside the park. The construction of logging roads on either side of the Queets Corridor has provided the hunters with necessary access and eliminated the need for this regulation. Neither hunting camps nor access routes have ever been established in the Pacific Coast Area also covered in this regulation because access to legal State hunting lands exists without entering Olympic National Park.

EFFECTIVE DATE: August 24, 1981.

FOR FURTHER INFORMATION CONTACT: Roger J. Contor, Superintendent, Olympic National Park, Telephone: (206) 452–4501.

SUPPLEMENTARY INFORMATION:

Background

In 1960 a cooperative agreement

between Olympic National Park and the Washington State Game Department provided for the establishment of hunter access routes within the Queets Corridor of the park. The purpose of these routes was to allow for the harvesting of elk in the inaccessible areas adjacent to this corridor.

Special regulations (36 CFR 7.28(d)) also allowed hunters, during the State authorized open hunting seasons for deer and elk, to establish camps at locations designated by the Superintendent, for the purpose of hunting outside the park. This regulation provided an exception to the National Park Service's general camping regulations found in 36 CFR 2.5(h) which state:

> Except in those park areas where hunting is permitted, the use of a camp in a park area as a base for hunting outside the park is prohibited.

Since the 1960 agreement, logging roads have been built north and south of the Queets Corridor, providing hunters with access to this area and making this special regulation unnecessary. With the promulgation of this rule, the park access routes will be eliminated and the general camping regulations in 36 CFR 2.5(h) will be applicable to this area of Olympic National Park.

On July 2, 1980, this proposed rule was published in the **Federal Register** (45 FR 44969) and open to public comment until August 1, 1980. The National Park Service received one comment from a group which expressed its full agreement with the proposed closure of hunter access routes and hunting camps. They felt the existence of routes and camps violated the purpose of the park. No objections have been received from local hunters. The Service's analysis shows that the construction of logging roads adjacent to the park provides adequate access for local sport hunting.

The regulation promulgated below is the same as that proposed.

Compliance With Other Laws

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981).

Since this regulation was proposed in 1980, it is not subject to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354) which became effective January 1, 1981.

This rulemaking contains no provisions that would entail the collection of information or require compliance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Drafting Information

The following persons participated in the writing of this regulation: Gordon D. Boyd, Chief Ranger, Olympic National Park, and Maureen Finnerty, National Park Service, Division of Ranger Activities and Protection, Washington, D.C.

(Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3))

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended as follows:

§ 7.28 Olympic National Park [Amended]

1. Removing the subparagraph "Queets River only at the designated elk hunter access routes during the general bull elk season" from § 7.28(b)(2) and

2. Removing and reserving all of § 7.28(d).

[FR Doc. 81-21588 Filed 7-22-81; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-9-FRL 1869-7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designation; California and Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: This notice revises the attainment status designations for the western portion of San Diego County, California and the Truckee Meadows (Reno) area of Nevada. The Designation for west San Diego County is changed from nonattainment to attainment for nitrogen dioxide (NO_2). The designation for Truckee Meadows is revised from nonattainment for oxidant to attainment for ozone. The revisions are the result of 1) no detected violations of the NO_2 National Ambient Air Quality Standard (NAAQS) in San Diego County for the past two years, and 2) EPA establishing a new NAAQS for ozone of 0.12 parts per million (ppm) to replace the photochemical oxidant standard of 0.08 ppm.

DATE: This action is effective August 24, 1981.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section (A-2-4), Air Programs Branch, Air and Hazardous Materials Division, EPA, Region IX, 215 Fremont St., San Francisco, CA 94105, Attn: Ronald Leach (415) 556-9728.

SUPPLEMENTARY INFORMATION: On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act (CAA), as amended, EPA promulgated attainment status designations for all states (43 FR 8962). The western portion of San Diego County, California was designated as nonattainment for NO_2 (for a boundary description see 36 FR 22439, November 25, 1971). The Truckee Meadows area of Nevada was designated nonattainment for photochemical oxidant. EPA established a new NAAQS for ozone of 0.12 ppm to replace the oxidant standard of 0.08 ppm on February 8, 1979 (44 FR 8202). In addition, EPA established a statistical method of determining whether the standard has been violated. Under Paragraph 107(d)(5) of the CAA, a state may revise its designations of attainment status and submit them to EPA for approval and promulgation.

On March 26, 1981, the California Air Resources Board requested that San Diego County be redesignated from nonattainment to attainment for NO_2. This notice concerns only the western portion of the County, since the eastern section is already designated attainment for NO_2. Attached to the State's request was a summary of air quality data showing no violations of the NO_2 NAAQS in the County for the past two years (1979 and 1980). Based upon a review of the data, EPA believes that the NO_2 standard is attained in the western portion of San Diego County.

A redesignation request was submitted to EPA by the State of Nevada for Truckee Meadows on November 5, 1980. On March 18, 1981, Washoe County submitted to EPA a summary of the highest ozone concentrations in Truckee Meadows over the past three years (1978 through 1980). The data showed that the ozone NAAQS had not been violated. EPA reviewed the data and believes that the ozone standard is attained in Truckee Meadows.

EPA published a notice of proposed rulemaking concerning both redesignations on May 6, 1981 (46 FR 25324) and provided a 30-day public comment period. No comments were received during this time. Today's notice takes final action to redesignate the western portion of San Diego County to attainment for NO_2 and the Truckee Meadows area of Nevada to attainment for ozone.

As a result of these redesignations, California and Nevada are no longer subject to the requirements of Title I,

Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, for NO_2 in West San Diego County and for ozone in Truckee Meadows.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves the state actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it is proposing approval of State actions. It imposes no new regulatory requirements.

This proposal was submitted to the Office of Management and Budget (OMB) for review, as required by Executive Order 12291.

(Section 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)))

Dated: July 13, 1981.

Anne M. Gorsuch,

Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

1. Section 81.305—California, the attainment status of West San Diego County for NO_2 (published March 3, 1978, 43 FR 8974) is revised to read as follows:

§ 81.305 California.

* * * * *

California—NO_2

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * * * *		
San Diego Air Basin:		
West San Diego County		X
* * * * * * *		

2. Section 81.329—Nevada, the attainment status of Truckee Meadows for O_3 (last revised on May 7, 1980, 45 FR 30071) is revised to read as follows:

§ 81.329 Nevada.

* * * * *

Nevada—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * * * *		
Truckee Meadows		X
* * * * * * *		

[FR Doc. 81-21584 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-178; RM-3410]

FM Broadcast Station in Bullhead City, Ariz.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes a Class C FM channel for a Class A channel at Bullhead City, Arizona, and modifies the license of the Class A station, KRHS, to specify the Class C channel at the request of the licensee, Holiday Broadcasting Company.

DATE: Effective September 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Montrose H. Tyree, Broadcast Bureau, (202) 632-7792

SUPPLEMENTARY INFORMATION:

Adopted: July 6, 1981.

Released: July 16, 1981.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Bullhead City, Arizona), BC Docket No. 80-178, RM-3410; Report and Order (Proceeding Terminated).

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 45 Fed. Reg. 29867, published April 29, 1980, proposing the substitution of Class C Channel 274 for Channel 272A at Bullhead City, Arizona, in response to a petition filed by Holiday Broadcasting Company ("petitioner"), licensee of FM Station KRHS (Channel 272A). The *Notice* also proposed modification of the license for Channel 272A to specify operation on Channel 274. Petitioner submitted comments, restating its interest in the Class C channel. Comments were also filed by Shoblom Broadcasting, Inc., licensee of AM Station KFWJ and FM Station KRFM, Lake Havasu City, Arizona.

2. Bullhead City—not listed in the 1970 U.S. Census, in Mohave County (population 25,827),[1] is located approximately 288 kilometers (180 miles) northwest of Phoenix, Arizona. It is served locally by Station KHRS-FM (Channel 272A).

3. Shoblom in comments restated its previous argument regarding consideration of the Bullhead city and the Lake Havasu City proposal (BC Docket No. 80-293) at the same time, so that neither station would receive a competitive advantage. Shoblom argues that both proceedings involve requests for upgrading Class A stations to Class C facilities with overlapping coverage. Shoblom now argues that the competitive equality should be maintained and therefore the proceedings should be taken into account in a combined fashion.

4. Petitioner incorporated by reference the information in the *Notice* that demonstrated the need for a Class C assignment. It contended that the coverage area gain would be almost 2,000 miles and almost 100 percent more population by upgrading its facilities

[1] Population figures are taken from the 1970 U.S. Census.

from a Class A channel to a Class C channel. The *Notice* indicated that since there were only a few stations in the area it appeared substantial first FM and nightime aural service would be provided. On that basis, we proposed the Class C assignment.

5. The assignment of Channel 274 to Bullhead City would cause preclusion on Channels 272A, 273, 274, 275, 276A and 277. Several Communities within the precluded area would be affected (Eagle Mountain, California (pop. 2,453); Hurricane, Utah (pop. 1,408); Kanab, Utah (pop. 1,381); and Bagdad, Arizona (pop. 2,079)). Petitioner did not submit a listing of alternate channels available to the communities precluded by the Class C assignment, as requested in the *Notice*. However, it did state that no community with a population exceeding 2,000 would be affected by the proposal.

6. As we stated in the *Notice*, the proposal for Bullhead City and Lake Havasu City are sufficiently unrelated that we did not believe that consolidation was warranted. The predicted 1 mV/m service from the proposed Bullhead City station was not expected to reach Lake Havasu City, according to our studies. However, the signal is likely to be heard in Lake Havasu due to the favorable terrain conditions. We recently granted the request of Shoblom to upgrade its Class A station to a Class C channel in Docket No. 80-293.

7. After careful consideration of the instant proposal, we believe that the public interests would be served by the substitution of channels, inasmuch as it would provide expanded service to the surrounding area and population. We have also authorized in paragraph 9, a modification of petitioner's license, Station KRHS-FM, to specify operation on Channel 274, since there has been no other expression of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

8. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered That effective September 4, 1981, the FM Table of Assignments, Section 73.202(b) of the Rules, is amended with regard to Bullhead City, Arizona, as follows:

City	Channel No.
Bullhead City, Ariz	274

9. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Holiday Broadcasting Company, for Station KRHS-FM, Bullhead City, Arizona, IS MODIFIED, effective September 4, 1981, to specify operation on Channel 274 instead of Channel 272A. Station KRHS-FM may continue to operate on Channel 272A for one year from the effective date of this action or until it is ready to operate on Channel 274, whichever is earlier, unless the Commission sooner directs subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 274, the licensee of Station KRHS-FM shall submit to the Commission the technical information normally requested of an applicant for Channel 274;

(b) At least 10 days prior to commencing operation on Channel 274, the licensee of Station KRHS-FM shall submit measurement data required of an applicant for a broadcast license; and

(c) The licensee of Station KRHS-FM shall not commence operation on Channel 274 without prior Commission authorization.

Nothing contained herein shall authorize a major change in transmitter site or the necessity of filing an environmental impact statement where required.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-21634 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-293; RM-3440]

FM Broadcast Station in Lake Havasu City, Ariz.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channels 266 and 286, deletes Channel 240A and modifies the license for Channel 240A to specify Channel 266 at Lake Havasu City, Arizona, in response to a request from Shoblom Broadcasting Inc. and Kenneth A. Jones. The assignments could provide additional service to Lake Havasu City, and coverage to presently unserved and underserved areas.

DATE: Effective September 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 6, 1981.

Released: July 17, 1981.

In the Matter of amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Lake Havasu City, Arizona), BC Docket No. 80-293, RM-3440; Report and Order (Proceeding Terminated).

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 45 FR 42725, published June 25, 1980, proposing the assignment of Channel 286 to Lake Havasu City, Arizona, and the substitution of Channel 266 for Channel 240A in the same community. Maurice W. Coburn ("Coburn"), proponent of the Channel 286 assignment, did not file comments to the *Notice*. Shoblom Broadcasting, Inc., ("Shoblom"), licensee of Station KRFM(FM) (Channel 240A), Lake Havasu City, filed comments in support of the substitution, which it originally proposed. In addition, when it became clear that Coburn would not pursue his request, Shoblom filed "reply comments" as well. Mount Wilson FM Broadcasters, Inc. ("Mount Wilson") and Kenneth A. Jones ("Jones") also filed comments, the latter submitted in an untimely fashion.

2. Lake Havasu City (population 13,000),[1] in Mohave County (population 25,857)[2] is located approximately 320 kilometers (200 miles) northwest of Phoenix. It is served locally by daytime-only AM Station KFWJ and by Station KRFM(FM) (Channel 240A). As our *Notice, supra*, reflects, Lake Havasu City's population qualifies it for two FM assignments. Further, the proposed provision of first and second FM service to a significant area and population, as

[1] This figure represents the preliminary count of a local census, there being no figure for the community in the 1970 U.S. Census.

[2] Population figure taken from the 1970 U.S. Census.

set forth in the *Notice*, justifies assignments of Class C channels to this community.

3. Our procedures for amending the FM Table of Assignments call for comments from the proponent of a proposed assignment and for a restatement of its intention to apply for the channel if assigned. Failure to file may lead to denial of the request. Coburn, proponent of the proposed Channel 286 assignment, did not file comments as required, giving us the option of termination without formal action. We will not take this course. Jones' submission, although untimely, reflects a present intent to apply for a Channel 286 facility if assigned.[3] Requiring that this intention be expressed in a new petition for rule making, rather than through a pleading in this proceeding, would serve no useful purpose, we believe. The public interest favors prompt institution of needed services, a goal best achieved here by permitting Jones to replace the original petitioner for assignment purposes. Hence, we will accept Jones' pleadings and, to avoid prejudice to the other parties, Shoblom's responsive pleading as well.

4. Our *Notice, supra*, listed four communities with populations exceeding 1,000 and with no FM assignments which would be precluded by the proposed Channels 266 and 286 assignments: Bagdad, Williams and Grand Canyon, Arizona, and Eagle Mountain, California. Shoblom's reply comments indicate that several Class A channels are available for assignment in each community. As for other technical considerations, Mount Wilson, licensee of Station KKGO, Los Angeles, California, expresses concerns of co-channel interference with the proposed Channel 286 assignment. The distance between Lake Havasu City and KKGO is approximately 208 miles, though, a figure well in excess of our 180 mile separation requirement. As for Shoblom's acknowledgement that the second harmonic of Channel 266 falls within television Channel 11, we do not generally take this into account, particularly where, as is the case in Lake Havasu City, the channel is occupied by a television translator.

5. There remains the question of reimbursement. Shoblom has asked from the outset that the ultimate Channel 286 licensee reimburse it for its frequency change. Under the circumstances here, this does not seem to us appropriate. As a general proposition, we will require a party who benefits from a new assignment which necessitates modification of an existing facility to bear the reasonable costs of the changeover where the Commission finds this to be equitable. See *e.g., Mitchell, South Dakota*, 62 F.C.C. 2d 70 (1976). Channel 286's ultimate licensee will benefit from our proposed substitution, it is true, since the assignment might not have been made were intermixture unavoidable. At the same time, however, Shoblom has independently expressed a willingness to pursue a Class C assignment, making it clear when Coburn did not respond to our *Notice, supra*, that it would convert to a Channel 266 operation without reimbursement should a second Class C assignment not be made. Unlike the licensee in *Mitchell, South Dakota, supra*, then, Shoblom is neither reluctant to modify its facility nor unable financially to bear the costs alone. Its conversion is to this extent voluntary rather than compelled and as such, we believe, should be undertaken at its own expense.

6. Mexican concurrence in the assignment of Channels 266 and 286 has been obtained.

7. In view of the foregoing, it is ordered, That effective September 4, 1981, pursuant to authority contained in Sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Lake Havasu City, Ariz	266, 286

8. It is further ordered, That, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license for Station KRFM (Channel 240A) at Lake Havasu City, Arizona, is modified to specify operation on Channel 266 instead of Channel 240A. Station KRFM may continue to operate on Channel 240A for one year from the effective date of this action or it may obtain modification of its license to operate on Channel 266 earlier, subject to the following conditions:

(a) At least 30 days before operation on Channel 266, the licensee of FM Station KRFM shall submit to the Commission the technical information normally required of an applicant for a construction permit;

(b) At least 10 days prior to commencing operation on Channel 266, the licensee of FM Station KRFM shall submit the measurement data required of an applicant for an FM broadcast station license; and

(c) The licensee of FM Station KRFM shall not commence operation on Channel 266 without prior Commission authorization.

Nothing contained herein shall be construed to authorize a major change in transmitter location or to waive the filing of an environmental impact statement where needed pursuant to Section 1.301 of the Commission's Rules.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning the above, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-21636 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

[3] Shoblom's assertion to the contrary notwithstanding, Jones' planned association with a local advertising agency does not render him unqualified to apply for the new facility. In any event, Jones' position and qualifications are matters to be resolved in the application processing stage and need not be impugned here. His expression of interest would be sufficient for us to base this assignment.

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47 CFR Part 73

[BC Docket No. 80-733; RM-3649]

Radio Broadcast Services; FM Broadcast Station, Spirit Lake, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 280A to Spirit Lake, Iowa, in response to a petition by Paul C. Hedberg. This action could provide a first local aural broadcast service to Spirit Lake.

DATE: Effective September 4, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 6, 1981.

Released: July 14, 1981.

By the Chief, Policy and Rules Division.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Spirit Lake, Iowa), Docket No. 80-733, RM-3649; report and order.

1. The Commission herein considers a *Notice of Proposed Rule Making*, 45 FR 78189, published November 25, 1980, proposing the assignment of FM Channel 280A to Spirit Lake, Iowa, as that community's first FM assignment, at the request of Paul C. Hedberg ("petitioner"). Supporting comments were filed by the petitioner in which he reaffirmed his intent to file for the channel, if assigned. No oppositions to the proposal were received. This assignment can be made in compliance with the applicable minimum distance requirements of § 73.207.

2. Spirit Lake, Iowa (population 3014), in Dickinson County (population 12,565) [1] is located approximately 309 kilometers (192 miles) northwest of Des Moines. This community has no local aural service.

3. Petitioner has submitted information with respect to Spirit Lake and the Iowa Great Lakes region which is persuasive as to its need for a first FM assignment.

4. We believe the public interest would be served by the assignment of channel 280A to Spirit Lake, Iowa. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective September 4, 1981, § 73.202(b) of the Commisson's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Spirit Lake, Iowa	280A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Population data are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-21601 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-701; RM-3616 and RM-3681]

FM Broadcast Stations in Andrews and Pawley's Island, S.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 265A to Andrews, South Carolina, in response to a petition filed by the Andrews Broadcasting Company, Inc. This assignment could provide Andrews with a first FM station. Another proposal by Linda Knop to assign the same channel to Pawley's Island, South Carolina, is dismissed.

DATE: Effective September 14, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 13, 1981.

Released: July 16, 1981.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Andrews and Pawley's Island, South Carolina), BC Docket No. 80-701, RM-3616, RM-3681; Report and Order (Proceeding Terminated).

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 Fed. Reg. 73719, published November 6, 1980, proposing the assignment of Channel 265A to either Andrews or Pawley's Island, South Carolina, as either community's first FM assignment. In the *Notice*, the Commission tentatively favored Andrews, the larger of the two communities, which receives less 1 mV/m service from nearby stations. Since that time, Linda Knop, petitioner for Pawley's Island, filed comments stating that she was no longer interested in the assignment of Channel 265A. Andrews Broadcasting Company, Inc. ("petitioner") filed comments reaffirming its intent in applying for the channel, if assigned.

2. Andrews (population 2,879) [1] is located in Georgetown County (population 33,500), 78 kilometers (50 miles) northeast of Charleston, South Carolina. The community is without local aural broadcast service.

3. Petitioner has submitted information with respect to Andrews, which is persuasive as to its need for a first local FM assignment.

4. In order to prevent short-spacing with FM Station WWOM (Channel 267) in Sumter, South Carolina, a site restriction of approximately 3 miles southeast of Andrews is required.

5. We believe the public interest would be served by the assignment of Channel 265A to Andrews, South Carolina. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

6. Authority for the adoption of the amendment herein is contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

7. Accordingly, it is ordered, That effective September 14, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community.

City	Channel No.
Andrews, S.C.	265A

8. It is further ordered, That this proceeding IS TERMINATED.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-21635 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-235; RM-3693 and RM-3792]

FM Broadcasts Station in Montpelier, Stowe, Vergennes, and Waterbury, Vt.; and Moriah and Port Henry, N.Y.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

[1] Population data are taken from the 1970 U.S. Census.

SUMMARY: This action assigns Channel 292A to Vergennes, Vermont, as that community's first FM assignment, at the request of Russell and Linda Kinsley. This action also reassigns Channel 276A from Montpelier, Vermont, to Waterbury, Vermont, at the request of Masterpeace Communications Corporation. In order to accommodate those assignments, Channel 292A is deleted from Moriah, New York; Channel 221A is assigned to Port Henry, New York, and the permit issued to Peter Edward Hunn is modified to specify operation on Channel 221A. Finally, Channel 269A is reassigned from Waterbury, Vermont, to Stowe, Vermont, to reflect its actual use at Stowe.

DATE: Effective September 14, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 10, 1981.

Released: July 16, 1981.

In the Matter of Amendment of § 73.202(b), FM Broadcast Stations. (Montpelier, Stowe, Vergennes, and Waterbury, Vermont; and Moriah and Port Henry, New York), BC Docket No. 81-235, RM-3693 RM-3792; Report and Order (Proceeding Terminated).

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making and Order to Show Cause*, 46 FR 22400, published April 17, 1981, proposing the following amendments to the FM Table of Assignments:

City	Channel No.	
	Present	Proposed
Moriah, N.Y.	292A	----
Port Henry, N.Y.	----	221A
Montpelier, Vt.	224A, 276A	224A
Stowe, Vt.	----	269A
Vergennes, Vt.	----	292A
Waterbury, Vt.	269A	276A

These amendments were proposed in response to petitions filed by Russell P. and Linda M. Kinsley ("Kinsley"), who seek a new assignment at Vergennes, Vermont; and Masterpeace Communications Corporation, Inc., ("Masterpeace"), who seeks a new FM assignment at Waterbury, Vermont.[1] In order to accommodate both proposals, a channel substitution was proposed at Moriah, New York. Accordingly, Peter Edward Hunn ("Hunn"), the permittee of Channel 292A was asked to show cause why his permit should not be modified to specify operation on Channel 221A.[2] Comments in response to the *Notice* were received from Kinsley, Masterpeace, and Hunn. No reply comments were filed.

2. In its comments, Kinsley reaffirms its intention to apply for a construction permit on Channel 292A at Vergennes, if assigned. Masterpeace also supports the proposals and states that it will attempt to activate the channel at Waterbury as soon as possible following the conclusion of the rule making. Hunn states in his comments that he does not oppose modification of his permit to specify operation on Channel 221A.

3. Vergennes (population 2,242),[3] in Addison County (population 24,266), is located near the New York State border approximately 55 kilometers (34 miles) east of Montpelier, Vermont. Vergennes presently has no local aural broadcast service. Waterbury (population 2,840), in Washington County (population 47,659), is located 16 kilometers (10 miles) northwest of Montpelier, Vermont. Waterbury is currently served locally by AM Station WDEV.

4. We have determined that the public interest would be served by making the assignments as proposed in the *Notice*. Kinsley and Masterpeace have submitted persuasive information regarding the desirability of making first FM assignments to Vergennes and Waterbury. Furthermore, no interest has been expressed in the unused assignment at Montpelier; thus, no objection exists to our reassigning Channel 276A from Montpelier to Waterbury. Also, as proposed in the *Notice*, we shall reassign Channel 269A from Waterbury to Stowe to reflect that channel's actual usage at Stowe.

5. Canadian concurrence in the assignments has been obtained.

6. Accordingly, it is ordered, That effective September 14, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the following communities:

City	Channel No.
Moriah, New York	----
Port Henry, New York	221A
Montpelier, Vermont	224A
Stowe, Vermont	269A
Vergennes, Vermont	292A
Waterbury, Vermont	276A

7. It is further ordered, That pursuant to the authority contained in § 316 of the Communications Act of 1934, as amended, the permit of Peter Edward Hunn for Channel 292 at Port Henry, New York, is modified to specify operation on Channel 221A, subject to the following provisions:

(a) At least 30 days before operating on Channel 221A, the licensee shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 221A;

(b) At least 10 days prior to commencing operation on Channel 221A, the licensee shall submit the measurement data required of an applicant for an FM broadcast station license;

(c) The licensee shall not commence operation on Channel 221A without prior Commission authorization; and,

(d) Nothing contained herein shall be construed to authorize a major change in transmitter location or the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by certified mail, return receipt requested, to Peter Edward Hunn, Station WHRC-FM, P.O. Box 92, Port Henry, New York 12974.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-21637 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Masterpeace originally sought only the reassignment of Channel 269A from Waterbury to Stowe, Vermont. Masterpeace then would have applied for Channel 276A (currently assigned to Montpelier) for use at Waterbury under the "10-mile rule." § 73.203(b). In the *Notice*, the Commission proposed instead simply to reassign Channel 276A from Montpelier to Waterbury to reflect where the interest was manifested.

[2] We also proposed to assign Channel 221A to Port Henry, New York, because that is the proposed city of license for Hunn's FM station.

[3] All population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 1

Redelegation of Authority To Make Determinations Under the Regulatory Flexibility Act

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment redelegates to the Director, Materials Transportation Bureau, the authority to make findings and determinations under the Regulatory Flexibility Act with regard to any rulemaking document for which issuance authority has already been delegated.

EFFECTIVE DATE: July 14, 1981.

FOR FURTHER INFORMATION CONTACT: Vita A. Simon, Office of the Chief Counsel, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 755–4972.

SUPPLEMENTARY INFORMATION: Since this amendment relates to agency management, procedures, and practices, notice and public procedure on it are not required and it may be made effective in fewer than 30 days after publication in the **Federal Register**. For the same reasons, it is not subject to the requirements of Executive Order 12291 on Federal Regulations.

The Regulatory Flexibility Act, Pub. L. 96–354, which became effective on January 1, 1981, requires the Department to consider the effect of proposed and final rules on small entities, i.e., small businesses, organizations, and governments. In connection with these considerations, the Act requires agency heads to make findings and determinations in several instances. For example, 5 U.S.C. 608(b), which was added by the Act, permits an agency head to delay the completion of a regulatory flexibility analysis (an analysis of the impact of a rule on small entities) for a final rule being issued in response to an emergency situation.

On April 20, 1981, the Secretary of Transportation delegated to the Administrator, Research and Special Programs Administration, the authority to make the required findings and certifications required under the Regulatory Flexibility Act. This authority was codified as 49 CFR 1.45(a)(13).

That authority is now redelegated to the Director, Materials Transportation Bureau. 49 CFR Part 1, Appendix A, § 5. is amended by adding the following words after "* * * safety":

and the authority of 49 CFR 1.45(a)(13) relating to the findings and certifications required under the Regulatory Flexibility Act are hereby redelegated to the Director of the Materials Transportation Bureau.

(49 CFR 1.45(a) and 1.53(a))

Issued in Washington, D.C., on July 14, 1981.

Howard Dugoff,

Administrator, Research and Special Programs Administration.

[FR Doc. 81-21504 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR Part 390

[Notice No. 81-4]

Application of the Federal Motor Carrier Safety Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretation.

SUMMARY: This notice presents an interpretation of the FHWA's jurisdiction to regulate the qualifications and maximum hours of service of commercial motor vehicle drivers engaged in interstate or foreign commerce. An interpretation of FHWA jurisdiction is important because Section 13(b)(1) of the Fair Labor Standards Act provides an exemption from the maximum hours and overtime requirements of Section 7 of the Act for employees subject to the jurisdiction of the FHWA.

EFFECTIVE DATE: July 23, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426–9767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: A major question has arisen regarding the jurisdiction of the FHWA to regulate the qualifications and hours of service of commercial motor vehicle drivers engaged in interstate or foreign commerce. An interpretation of FHWA jurisdiction is important because Section 13(b)(1) of the Fair Labor Standards Act provides an exemption from the maximum hours and overtime requirements of Section 7 of the Act (29 U.S.C. 213(b)(1)) for employees subject to the jurisdiction of the FHWA under 49 U.S.C. 304.

Background

In order to determine whether a driver is subject to the FHWA's jurisdiction the activities or likely activities of the individual driver must be reviewed. "Morris v. McComb 322" U.S. 422 (1947). If in the regular course of employment a driver is, or could be, called upon to transport a shipment in interstate commerce the driver would be subject to the FHWA's jurisdiction under 49 U.S.C. 304. 49 U.S.C. 304 provides the authority to regulate the qualifications and maximum hours of service of employees, and safety of operation and equipment of common carriers, contract carriers, private carriers of property, and carriers of migrant workers.

The court cases relevant to this issue include "Morris v. McComb", "Starrett v. Bruce," 391 F. 2d 320 (10th Cir. 1968), "Brennan v. Schwerman Trucking Co.," 540 F. 2d 1200 (4th Cir. 1976), "Rogers Cartage Co. v. Reynolds", 166 F. 2d 317 (6th Cir. 1948), "Kerr v. Jeans," 193 F. 2d 572 (5th Cir. 1952), "Pyramid Motor Freight v. Ispass," 330 U.S. 695 (1947), "Sinclair v. Beacon Gasoline Co.," 447 F. Supp. 5, 11 (W.D. La. 1976), aff'd 571 F. 2d 978 (5th Cir. 1978), and "Cooker v. Sexton Motor, Inc.," 469 F. 2d 206 (1st Cir. 1972). These cases establish the basic tests for determining whether a driver is subject to Federal jurisdiction under 49 U.S.C. 304. They hold that even a minor involvement in interstate commerce as a regular part of an employee's duties will subject that employee to the jurisdiction of the FHWA. In two of the cases mentioned, "Morris v. McComb" and "Starrett v. Bruce", the courts found jurisdiction over drivers even though those drivers had not driven at all in interstate commerce. The findings of jurisdiction were based on the probability of those drivers being assigned to interstate runs in the regular course of their employment. The findings are consistent with the decision in "Goldberg v. Faber Industries," 291 F. 2d 232 (7th Cir. 1961), a case in which the court determined that particular employees were not subject to jurisdiction under 49 U.S.C. 304. In this case, the employees had never been used in interstate commerce and could not reasonably be expected to handle an interstate run in the normal performance of their duties. 291 F. 2d at 234.

In "Starrett v. Bruce", the employee did no interstate driving during the 10-month period in question, but was found to be subject to 49 U.S.C. 304 because there was a reasonable expectation that

he/she could have been called on to do interstate driving during that time period. The expectation existed because the carrier held interstate authority, advertised for interstate work, assigned drivers indiscriminately to that work, and would have had to perform the interstate transportation had the business been presented. Likewise, in "Morris v. McComb", two drivers who had never driven interstate during the 6-month period of their employment were found to be subject to 49 U.S.C. 304 because of their likelihood of performing interstate work. The company in that case did only four percent of its business in interstate commerce but assigned its drivers to that work indiscriminately.

"Baird v. Wagoner", "Goldberg v. Faber" and "Coast Van Lines v. Armstrong," 167 F. 2d 705 (9th Cir. 1948) are three cases in which the courts found no jurisdiction under 49 U.S.C. 304. In the "Baird" case the carrier held interstate authority that had not been used for a long period of time. The court found that the mere existence of the authority was insufficient to establish jurisdiction. There was no evidence in that case to indicate that the carrier had actually solicited interstate business. In the "Goldberg" case the stipulated facts established that the drivers in question had never been used in interstate commerce and could not reasonably be expected to be so used. Lack of jurisdiction was found in "Coast Van Lines" because the carrier presented evidence of interstate trips during only one month. The court held that this was insufficient to establish what the drivers' activities were during the entire time period in question.

A week-by-week approach and the application of the *de minimis* principle, which states that the law does not take notice of very small or trifling matters, were examined in other cases. A week-by-week approach to jurisdiction was rejected by the courts in application to both "for hire" and "private" carriers. "Rogers Cartage v. Reynolds" and "Kerr v. Jeans". The use of the *de minimis* principle to jurisdictional questions under 49 U.S.C. 304 has also been rejected by the courts. The courts that have applied this principle find that it should seldom, if ever, be applied to drivers because of the direct effect of driving on the safety of motor vehicle operations. "Sinclair v. Beacon Gasoline" and "Crooker v. Sexton Motor". In a case representing the minority view the *de minimis* principle was applied to find no jurisdiction under 49 U.S.C. 304. The driver in that case, however, performed only a small amount of driving in interstate commerce. "Coleman v. Jiffy June Farms, Inc.," 324 F. Supp. 664 (S.D. Alabama 1970).

In summary, the cases discussed above provide some guidance on the jurisdictional question under 49 U.S.C. 304. They establish that a driver who is called on, or is subject to being called on, to drive in interstate commerce as part of the driver's regular employment is under the jurisdiction granted in 49 U.S.C. 304. "Morris v. McComb". This jurisdiction applies even if the driver has not personally driven in interstate commerce if, because of company policy and activity, the driver could reasonably be expected to do interstate driving. "Morris v. McComb" and "Starrett v. Bruce". In determining the reasonable expectation, the courts will look at whether the carrier (employer) does any interstate work or whether the carrier is actively attempting to obtain interstate work during the period in question. If the carrier does interstate work or advertises for such work and assigns drivers randomly to that driving, all the drivers are under the jurisdiction of 49 U.S.C. 304. "Morris v. McComb", "Starrett v. Bruce", and "Brennan v. Schwerman Trucking".

Jurisdiction does not attach if there is no possibility of the individual driver doing interstate driving or if the possibility of interstate driving is remote. "Baird v. Wagoner" and "Goldberg v. Faber".

Once a driver is subject to jurisdiction under 49 U.S.C. 304, the driver remains so for longer than a week, but jurisdiction cannot be implied for a lengthy period of time based on only a few interstate trips during a 1-month period. "Rogers Cartage v. Reynolds", "Kerr v. Jeans", and "Coast Van Lines v. Armstrong". A driver is not under the jurisdiction of 49 U.S.C. 304 merely because the employing carrier has interstate authority which has not been actively used for several years. "Baird v. Wagoner".

The cases establish that a driver will remain under the jurisdiction of 49 U.S.C. 304 for as long as the driver is in a position to be called upon to drive in interstate commerce as part of the driver's regular duties. The question left unanswered by case law is how to determine whether a driver is in that position. It is clear that evidence of several interstate trips in a short period of time is insufficient to support a finding of jurisdiction for an unlimited period. Most of the cases where jurisdiction has been found relied on actual evidence of driving in interstate commerce or evidence showing the driver would be called on to drive in interstate commerce.

Interpretation

The FHWA view is that in order to establish jurisdiction under 49 U.S.C. 304 the carrier must be shown to have engaged in interstate commerce within a reasonable period of time prior to the time at which jurisdiction is in question. The carrier's involvement in interstate commerce must be established by some concrete evidence such as an actual trip in interstate commerce or proof, in the case of a "for hire" carrier, that interstate business had been solicited. If jurisdiction is claimed over a driver who has not driven in interstate commerce, evidence must be presented that the carrier has engaged in interstate commerce and that the driver could reasonably have been expected to make one of the carrier's interstate runs. Satisfactory evidence would be statements from drivers and carriers, and any employment agreements.

Evidence of driving in interstate commerce or being subject to being used in interstate commerce should be accepted as proof that the driver is subject to 49 U.S.C. 304 for a 4-month period from the date of the proof. The FHWA believes that the 4-month period is reasonable because it avoids both the too strict week-by-week approach and the situation where a driver could be used or be subject to being used once and remain subject to jurisdiction under 49 U.S.C. 304 for an unlimited time.

This interpretation relates solely to the jurisdiction over drivers under authority granted in 49 U.S.C. 304. It does not define the scope of coverage of the Federal Motor Carrier Safety Regulations which in certain instances is less than a full exercise of jurisdiction.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60) (Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: July 17, 1981.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 81-21439 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70-7; Notice 11]

Fields of Direct View; Availability of Analysis

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability of analysis.

SUMMARY: The National Highway Traffic Safety Administration has placed in the public docket an analysis relating to certain of the agency's conclusions in its recent notice rescinding Federal Motor Vehicle Safety Standard No. 128, *Fields of Direct View* (June 22, 1981; 46 FR 32254). In the notice, the agency concluded that it had substantially underestimated the problem of production variations in "A" pillars, weatherstripping, door frames and interior and exterior trim. The notice also discussed the manufacturer's statements about the substantial costs of redesigning certain cars to ensure that the production variations did not result in the noncompliance of any car and concluded that the estimated costs appeared to be reasonable.

ADDRESS: Copies of the analysis may be obtained by writing to Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: George Parker, Telephone 202-426-2720.

Issued on July 17, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-21414 Filed 7-17-81; 3:58 pm]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 46, No. 141
Thursday, July 23, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y]

Bank Holding Companies and Change in Bank Control; Data Processing and Electronic Funds Transfer Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: On November 5, 1980, the Board issued an amended Order for Hearing [45 FR 75221 (1980)] regarding an application by Citicorp, New York, New York, to engage in certain data processing activities through a subsidiary to be known as Citishare Corporation. The amended Order reflected an amendment to Citicorp's application involving certain activities related to data processing and transmission, including electronic funds transfer activities, that may not previously have been authorized by Regulation Y. The Board's amended Order and related **Federal Register** notice announced initiation of rulemaking and set out Citicorp's proposed data processing and transmission activities in detail. Comments are requested concerning the rule proposed by Citicorp that would authorize such activities, for consideration as part of the record of the hearing on Citicorp's proposal.

DATE: Comments must be received by October 1, 1981.

ADDRESS: Comments may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information [12 CFR 261.6(a)].

FOR FURTHER INFORMATION CONTACT:

Carl V. Howard, Senior Attorney (202/452-3786), or Michael L. Kadish, Attorney (202/452-3428), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Under section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. 1843(c)(8)], a bank holding company or its subsidiaries may engage, with the Board's prior approval, in any activity that the Board has determined "to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." This section authorizes the Board to make the determination of whether an activity is closely related to banking by regulation.

The Administrative Law Judge in the hearing on Citicorp's proposal has ruled that interested persons may, without participating in the adjudicatory aspects of the hearing, express their views on the question of whether the activities covered by the proposed rule are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Pursuant to its authority under section 4(c)(8) of the Bank Holding Company Act [12 U.S.C. 1843(c)(8)], the Board proposes the following amendments to 12 CFR 225.4:

1. Section 225.4(a)(8) would be revised to read as follows:

§ 225.4 Nonbank activities.

(a) * * *

(8)(i) Providing data processing and transmission services, information or facilities [1] for the internal operations of the holding company and its subsidiaries;

(ii) Providing to others data processing and transmission services, information or facilities, or access to such services, information or facilities, wherein the data to be processed or furnished are financial, banking or economic related;

(iii) Providing by-products of permissible data processing and transmission activities; and

(iv) Providing excess capacity on data processing and transmission equipment and facilities used in connection with activities under (i) and (ii) above, but only to the extent of furnishing the facilities necessary to the utilization of the excess capacity.

* * * * *

2. Footnotes 7, 8, 9, 10, 11, and 12 to 12 CFR 225.4 would be redesignated as footnotes 8, 9, 10, 11, 12, and 13, respectively.

Board of Governors of the Federal Reserve System, July 17, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-21997 Filed 7-22-81; 8:45 am]

BILLING CODE 6210-01-M

[1] The term "facilities" includes data processing and transmission hardware, software, documentation, and operating personnel.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-81-11]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: September 20, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 15, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
21715	Israel Aircraft Industries	Amend SFAR 14, to delete the 12,500 pounds maximum zero fuel weight limitations of paragraph 4.1(a) and 41.1(b) in order to allow certain airplanes to operate with an increased revenue payload. Petitioner states the 12,500 pound maximum zero fuel weight limitation is exclusively an economic penalty and is not a safety consideration. It imposes a restriction on the efficient operation of such commuter type airplanes certificated under SFAR 41 requirements.
21756	Mr. Stanley J. Green General Aviation Manufacturers Assoc. (GAMA).	Change to Section 21.50(b) of FAR issued in Amendment 21-51 effective October 14, 1980, as further modified in Amendment 21-51(A), effective December 29, 1980, to defer the compliance date of January 28, 1981, for general aviation airplanes and transport airplanes up to 75,000 pounds takeoff weight, with respect to compliance with the provisions of Parts 23.1529 and 25.1529, until such time as the objectives and intent of the FAA in accord with the original NPRM, are clarified and made known.

Petitions for Rulemaking: Denied

Docket No.	Petitioner	Description of the rule requested
None this period.		

[FR Doc. 81-21319 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AWE-19]

Proposed Establishment of Transition Area, Casa Grande, Ariz.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area for Casa Grande Municipal Airport, Casa Grande, Arizona in order to provide additional controlled airspace for aircraft executing an instrument approach procedure to the Casa Grande Municipal Airport.

DATES: Comments must be received on or before August 14, 1981.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 14, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area at Casa Grande, Arizona. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Casa Grande Municipal Airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (46 FR 540) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following transition area.

Casa Grande, Ariz.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Casa Grande Municipal Airport (latitude 32°57'11" N, longitude 111°45'54" W.) and within 3 miles each side of the localizer course extending from the 5-mile radius area to the Casa Grande VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California on July 10, 1981.

H. C. McClure,

Acting Director.

[FR Doc. 81-21547 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AWE-20]

Proposed Establishment of Transition Area, Grass Valley, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area for Nevada County Air Park Airport, Grass Valley, California in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Nevada County Air Park.

DATES: Comments must be received on or before August 23, 1981.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California, 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261. All communications received on or before August 17, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California, 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 700 foot transition area at Grass Valley, California. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Nevada County Air Park.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (46 FR 540) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following transition area.

Grass Valley, Calif.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Nevada County Air Park Airport (latitude 39°13'25" N., longitude 121°00'15" W.) and within 4 miles each side of the Marysville, California VOR (latitude 39°05'56" N., longitude 121°34'19" W.) 074° radial extending from the 5-mile radius area to 16 miles east of the VOR.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California on July 10, 1981.

H. C. McClure,

Acting Director.

[FR Doc. 81-21546 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AGL-27]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to correct the current published definition of the transition area designated for Chippewa County Airport, Sault Ste. Marie, Michigan. The current definition omits any reference to that airspace required above 1200 feet above the surface. The intended effect of this action is to ensure agreement between the currently charted transition area and the published definition.

DATES: Comments must be received on or before August 24, 1981.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 81-AGL-27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The transition area as currently defined and published does not include any reference to that airspace above 1200 feet above the surface, which is depicted on current maps and charts. This action is to include reference to that airspace in the published definition.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 81-AGL-27, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 24, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date

for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Sault Ste. Marie, Michigan. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1981, (46 FR 540).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (46 FR 540) the following transition area is amended to read:

Sault Ste. Marie, Michigan

That airspace extending upward from 700 feet above the surface within 8.5 miles of the Chippewa County Airport (latitude 46°14'52" N., longitude 84°28'15" W., estimated) and that airspace extending upward from 1200 feet above the surface within a 25-mile radius of Chippewa County Airport excluding that airspace outside the continental limits of the United States.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 7, 1961.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21590 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-12]

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this action is to alter the control zone serving the Glenview (Illinois) Naval Air Station, by relinquishing controlled airspace no longer required for Haley Army Airfield in Fort Sheridan, Illinois, and by adding to the control zone to encompass current and proposed operations at the Glenview Naval Air Station and the Palwaukee Airport in Wheeling, Illinois. The intended effect of this action is to insure segregation of aircraft using approach procedures in instrument conditions from other aircraft operating under visual conditions.

DATES: Comments must be received on or before August 30, 1981.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 81–AGL–12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The nature of this Federal action is two-fold. The existing control zone serving the Glenview (Illinois) Naval Air Station will be reduced by eliminating that portion of the control zone which was previously required to accommodate instrument operations at Haley Army Air Field at Fort Sheridan, Illinois. Haley Field has been closed by the military. The floor of the airspace removed from the control zone status will be raised from the surface to 700 feet above ground. That alteration would return a large block of airspace to a non-control zone status and reduce the burden on visual flight operations. In addition, the control zone will also be altered to encompass all current and proposed operations at the Glenview (Illinois) Naval Air Station and the Palwaukee Airport in Wheeling, Illinois. That will require an addition to the control zone of a two-mile extension to the southeast of the Glenview (Illinois) Naval Air Station and a two-mile extension north of the Palwaukee Airport. The floor of the controlled airspace in the extension areas will be lowered from 700 feet above ground down to the surface. Aeronautical maps and charts will be amended to reflect the defined areas which will enable other aircraft to circumnavigate the areas of instrument procedures in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 81–AGL–12, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 30, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone near Glenview, Illinois. Subpart F of Part 71 was republished in the **Federal Register** on January 2, 1981, (46 F.R. 455).

The Proposed Amendment

Accordingly, the FAA proposes to amend Part 71 of the Federal Aviation Regulations as follows:

In § 71.171 (46 F.R. 455) the following control zone is amended to read:

Glenview, Illinois

Within a 5-mile radius of NAS Glenview (latitude 42°05'30" N, longitude 87°49'20" W); within 2 miles each side of the Northbrock, IL VOR, 160° and 143° radials extending from the Chicago, IL (O'Hare International Airport), and the Glenview, IL, 5-mile radius zones to 2 miles south (160° radial) and 4.5 miles southeast (143° radial) of the VOR, within 2 miles each side of the 360° bearing from NAS Glenview RBN; extending from the 5-mile radius zone to 8 miles north of the RBN; and within 2 miles eachside of the NAS Glenview TACAN 098° radial, extending from the 5-mile radius zone to 6.5 miles east of the TACAN, excluding the area that overlies the Chicago, IL (O'Hare International Airport) control zone.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 7, 1981.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21548 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-31]

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to alter the existing control zone serving Greater Rockford Airport, Rockford, Illinois by redefining the control zone using reference to an Outer Marker (OM) in lieu of a VORTAC. The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before August 30, 1981.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 81-AGL-31, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The slight alteration to the control zone boundary was necessitated by the completed relocation of the Rockford VORTAC. A small area of airspace approximately one (1) mile by 3.5 miles located northwest of the Rockford VORTAC, which is currently described as being within the control zone will be returned to a non-control zone status and the floor of controlled airspace in that area will be raised from the surface to 700 feet above the surface. Aeronautical maps and charts will reflect the defined areas, which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 81-AGL-31, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 30, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone near Rockford, Illinois. Subpart F was published in the **Federal Register** on January 2, 1981, (46 FR 455).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.171 (46 F.R. 455) the following control zone is amended to read:

Rockford, Illinois

Within a 5-mile radius of the Greater Rockford Airport (latitude 42°11'50" N, longitude 89°05'45" W); within 2 miles each side of the Rockford ILS localizer S course, extending from the 5-mile radius zone to the OM.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 7, 1981.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21552 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-22]

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to redefine the description of the control zone serving Delta County Airport, Escanaba, Michigan, to reflect the part-time use status of the control zone.

DATES: Comments must be received on or before August 24, 1981.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 81-AGL-22, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The published description of the Escanaba, Michigan control zone does not reflect the capability of establishing use times of NOTAM. This action adds that capability.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 81-AGL-22, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 24, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of part 71 to alter the control zone near Escanaba, Michigan. Subpart F was published in the **Federal Register** on January 2, 1981 (46 FR 455).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.171 (46 FR 455), the following control zone is amended to read:

Escanaba, Michigan

Within a 5-statute mile radius of Escanaba VORTAC (lat. 45°43'19" N., long. 87°05'31" W.), within 3 statute miles each side of the Escanaba VORTAC 007° and 101° radials, extending from the 5-mile radius zone to 8.5 statute miles north and east of the VORTAC; within 3 statute miles each side of the Escanaba VORTAC 266° radial extending from the 5-mile radius zone to 8 statute miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 7, 1981.

Frederick M. Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21549 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-26]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to revoke the designated controlled airspace associated with the transition area for Miller Airport, Reed City, Michigan. The instrument approach procedure for Miller Airport has been cancelled because the airport is no longer in use, and the intended effect of this action is to return the controlled airspace to visual weather conditions use.

DATE: Comments must be received on or before August 30, 1981.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 81-AGL-26, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of controlled airspace in the area will be raised from 700 feet above the surface to 1200 feet above the surface. In addition, aeronautical maps and charts will reflect the change.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 81-AGL-26, Federal Aviation Administration, 2300

East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before August 30, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Reed City, Michigan. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

§ 71.181 (46 FR 540) the following transition area is amended to read:

Reed City, Michigan

Revoked

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 7, 1981.

Frederick Isaac,

Acting Director, Great Lakes Region.

[FR Doc. 81-21065 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1879-5]

Approval and Promulgation of Implementation Plans; Imperial County and Monterey Bay Area, State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of these revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." This Notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, proposes to approve the revisions, and invites public comments on this rulemaking action.

DATE: Comments may be submitted up to August 24, 1981.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, State Implementation Plan Section (A–4–2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revision and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Imperial County Board of Supervisors, Imperial County Courthouse, 939 Main Street, El Centro, Calif. 92243;

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93906;

Association of Monterey Bay Area Governments, 23845 Holman Highway, Suite 227, Monterey, CA 93940;

California Air Resources Board, 1102 "Q" Street, Sacramento, Calif. 95812;

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region, IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

On November 10 and December 4, 1980 (45 FR 74480 and 80279), the Environmental Protection Agency (EPA) approved with conditions the Imperial County Nonattainment Area Plan (NAP) and the North Central Coast (Monterey) NAP, respectively. These conditions required, among other things, that the State of California submit a cutback asphalt rule reflecting reasonably available control technology (RACT), as a SIP revision by Janaury 1, 1981, for Imperial County and by March 4, 1981 for the Monterey Bay Unified Air Pollution Control District. (MBUAPCD).

Review of Proposed Revision

On March 30, 1981, the Governor's designee submitted Rule 418.1, "Cutback Asphalt", for Imperial County and Rule 425, "Cutback Asphalt", for the MBUAPCD as official SIP revisions to fulfill the conditions of approval. EPA also received a letter dated April 2, 1981 from the MBUAPCD which provided data to justify an exemption contained in their rule.

Sections 172(a)(2) and (b)(3) of the Clean Air Act require that minimum levels of control technology be provided for in the NAPs. For nonattainment areas such as Imperial County and the Monterey Bay Area the plan must include adopted, legally enforceable regulations which reflect the application of RACT for those major stationary source categories (i.e., those with over 100 tons per year potential emissions) for which EPA has published a Control Techniques Guideline (CTG) document by January, 1978 (i.e., Category I CTGs).

The State has previously submitted adopted rules for both counties that regulated all of the required Group I CTG source categories, with the exception of cutback asphalt. As stated previously, the cutback asphalt rule was made a condition of approval for the two NAPs.

Based on information contained in the CTG's, EPA believes that Imperial County's Rule 418.1 and MBUAPCD's Rule 425, submitted on March 30, 1981,

contain control requirements which are adequate to fulfill the requirements for RACT for cutback asphalt. Therefore, EPA proposes to approve these rules and incorporate them into the SIP.

The approval of Rules 418.1 and 425 would satisfy one of the conditions of approval for the Imperial County and the MBUAPCD NAPs. However, the conditional approval will be continued until EPA publishes in the Federal Register final approval or disapproval of all the conditional approval items for the Imperial County and the MBUAPCD NAPs.

Public Comments

Under Section 110 of the Act, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

The Regional Administrator hereby issues this notice setting forth the revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

Comments received on or before August 24, 1981, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the ADDRESSES Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110(a)(2) and Part D of the Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it only approves state actions. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605 (b) the Administrator has certified (46 FR 8709) that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7506, and 7601(a)))

Dated: June 4, 1981.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 81-21497 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-8-FRL 1838-5]

Approval and Promulgation of State Implementation Plans; Nonattainment Area Plans for Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On December 29, 1980, the Governor of Colorado submitted Regulation No. 11 to the U.S. Environmental Protection Agency (EPA) for review as required under Section 110 of the Clean Air Act. The regulation covers certain aspects of the Colorado motor vehicle emission inspection program required to be submitted under the EPA 1982 State Implementation Plan (SIP) policy of January 22, 1981 (46 FR 7182). In this notice, the EPA is proposing to approve Regulation No. 11. However, the agency cannot take action on the overall Colorado inspection program until the remaining elements required by the 1982 SIP policy are received.

DATES: Comments due on or before August 24, 1981.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Barry F. Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-6131.

SUPPLEMENTARY INFORMATION:

Background

Section 172(b)(11)(B) of the Clean Air Act requires the State Implementation Plan (SIP) for areas which cannot attain the National Ambient Air Quality Standards for ozone or carbon monoxide (CO) by 1982 to include provisions for a vehicle emission control inspection and maintenance (I/M) program. The 1979 SIP revision was required to contain only qualitative descriptions of the key elements of the I/M program: legal authority, schedule, and commitments to implement and enforce the program, to provide adequate resources to support the program, and to achieve the required program effectiveness.

Colorado's SIP submittal of January 2, 1979, did not contain the required evidence of legal authority, but a subsequent submittal allowed EPA to conditionally approve the I/M portion of the SIP (44 FR 57401). When the date provided in the conditional approval passed, EPA disapproved the CO and ozone portions of the Colorado SIP (45 FR 16486 and 45 FR 21634). The Colorado legislature passed a bill on May 7, 1980, which Governor Richard Lamm submitted as a SIP revision to EPA on May 29, 1980. The law established legal authority for an I/M program throughout the Colorado Front Range from Colorado Springs through Greeley and Ft. Collins, encompassing all Colorado CO or ozone nonattainment areas. EPA's evaluation and approval of that SIP revision is documented in 45 FR 47682 (July 16, 1980).

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 (46 FR 7182). As discussed in that policy, states with areas that have I/M programs under development or operational as part of their 1979 SIP revisions were required to submit only qualitative descriptions of their I/M program elements in the 1979 SIP submittal. The 1982 SIP revision must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements.

More specifically, the 1982 submittal must include: (1) inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations, and procedures; (9) a public awareness plan; and (10) a mechanics training program, if additional emission reduction credits

are being claimed for mechanics training. Colorado submitted the first four of these ten elements.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

In the case of a partial submittal, EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to assure that the program satisfies the requirements in Part D of the Clean Air Act.

State Submittal

On December 29, 1980, Colorado submitted Regulation No. 11 which satisifes a portion of the I/M requirements for the 1982 SIP revision. It includes procedures for garage licensing (including mechanic testing and licensing), equipment requirements (including standards and specifications for exhaust gas analyzers), requirements for inspections, and emission standards. The emission standards are designed to provide a maximum stringency of 40% for 1968 through 1974 vehicles and 30% for 1975 and newer vehicles.

Cars will be tested using emission analyzers. Emission analyzers used in conducting the inspection must be approved by the Air Quality Control Commission. If cars comply with the standards, they will be issued a certificate of emissions compliance. Model year 1968–1980 vehicles which fail to comply with the standards, at the time of testing, will be adjusted to manufacturer's specifications and then retested. If they still fail to meet standards, they will be issued a certificate of emission adjustment and no further repairs or maintenance will be required, unless emissions control devices have been altered, removed, disabled or rendered inoperative. Visual inspection of emission control devices will be performed. owners of model year 1981 and later vehicles which fail to comply with standards at the time of testing will be required to repair their vehicles to meet standards. If these vehicles still fail to meet standards after expending up to $100.00 on emissions related repair costs, they will be issued a certification of emissions adjustment.

The high altitude performance adjustments provided by Section 215 of Clean Air Act will be included as part of the adjustments required.

The full program will begin on January 1, 1982, but a change of ownership and voluntary program began July 1, 1981. The provisions of the program requiring repairs on 1981 and later model year vehicles began July 1, 1982.

Proposed Action

EPA is proposing to approve Regulation No. 11 of Colorado's I/M program because it contains provisions which satisfy part of the requirement for the 1982 SIP revision, namely, the inspection test procedures, emission standards, inspection stations licensing requirements and emission analyzer specification and maintenance/calibration requirements. For all four of these elements, the provisions of Regulation No. 11 meet or exceed the applicable requirements of EPA's I/M policy. However, because Colorado has not yet submitted all of the required elements for the 1982 SIP revision, EPA cannot propose action at this time on Colorado's total I/M program or total 1982 SIP revision for I/M. As soon as Colorado submits the final six elements, and EPA determines to meet I/M requirements, total approval will be granted.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. Section 605(b)), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). This proposed rule, if promulgated, constitutes a SIP approval within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA is required to perform a regulatory impact analysis for major rules. I have reviewed this regulation and determined that it is not a major rule because it merely approves State action and imposes no new requirements. Therefore, this proposed rule is not subject to the substantive and procedural requirements of Executive Order 12291, regarding preparation of a regulatory impact analysis.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: April 15, 1981.

Roger Williams,

Regional Administrator.

[FR Doc. 81-21596 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1879-6]

Approval and Promulgation of Implementation Plans; Florida, Georgia, Kentucky, South Carolina, and Tennessee: Set II VOC Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Part D of the Title I of Clean Air Act, as amended in 1977, requires that states revise their State Implementation Plan (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). As part of their control strategies for attainment of the NAAQS for ozone (O_3), Georgia, Florida, South Carolina, Tennessee, and Kentucky have revised their SIPs to require control of volatile organic compounds (VOCs) from additional categories of sources which have emissions before control of 100 tons per year or more. Ozone nonattainment areas in these states are as follows:

- Georgia: Atlanta (Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Paulding and Rockdale Counties; and Columbus (Muscogee County).
- Florida: Duval, Broward, Dade, Palm Beach, Orange, Hillsborough, and Pinellas Counties.
- South Carolina: Charleston (Charleston and Berkeley Counties), Columbia (Richland and Lexington Counties), and York County.
- Tennessee: Nashville (Davidson, Sumner, Rutherford, Wilson and Williamson Counties); and Shelby, Maury, Hamilton, Knox, Sullivan, Bradley and Roane Counties.
- Kentucky: Boyd, Boone, Campbell, Fayette, Henderson, Jefferson, and Kenton Counties.

EPA proposes to conditionally approve the SIP revisions submitted by Kentucky and fully approve the SIP revisions submitted by Georgia, Florida, South Carolina and Tennessee. This notice solicits comments on EPA's proposed action.

DATE: To be considered, written comments must be received on or before August 24, 1981.

ADDRESSES: Comments should be directed to Waymond A. Blackmon of EPA, Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of the materials submitted by the states may be examined during normal business hours at the EPA Region IV Library, at the Public Information Reference Unit of EPA's Washington, D.C. Office at 401 M Street, S.W., at the Offices of the Georgia Department of Natural Resources, Florida Division of Environmental Programs, Kentucky Department for Natural Resources and Environmental Protection, South Carolina Department of Health and Environmental Control, and Tennesse Department of Public Health.

FOR FURTHER INFORMATION CONTACT: Waymond A. Blackmon, EPA, Region IV, Air Programs Branch, 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Provisions of the Clean Air Act enacted in 1977 require states to revise their SIPs for areas that have not attained the NAAQS. For states with O_3 nonattainment areas, EPA has stated that the minimum acceptable level of O_3 control includes reasonably available control technology (RACT) requirements for sources of volatile orgnic compound (VOC) emissions for which EPA has published a Control Technique Guideline (CTG) by January 1978, and additional requirements on an annual basis for VOC sources covered by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979).) Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Group II CTGs) were due July 1, 1980 (44 FR 50371, August 28, 1979). However, because states' regulatory processes took longer than anticipated, and since in most cases good faith efforts were being made to adopt the necessary regulations, EPA revised the July 1, 1980, deadline to January 1, 1981 (45 FR 78121, November 25, 1980).

EPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories:

- Factory Surface Coating of Flatwood Paneling
- Petroleum Refinery Fugitive Emissions (Leaks)
- Pharmaceutical Manufacture
- Rubber Tire Manufacture
- Surface Coating of Miscellaneous Metal Parts and Products
- Graphic Arts (Printing)
- Perchloroethylene Dry Cleaning
- Gasoline Tank Trucks, Leak Prevention
- Petroleum Liquid Storage, Floating Roof Tanks

On January 14, 1981, Georgia submitted to EPA revisions to the SIP that consist of regulations for all of the above categories except perchloroethylene dry cleaning. The state submitted a letter certifying the nonexistence of sources which have emissions before control of 100 tons per year or more. These regulations are applicable to all counties within the State of Georgia. Georgia has incorporated EPA methods 24 & 25 into the state's test manual and has certified in writing that the state will use these test methods for testing VOC sources. Furthermore, all captive systems will be evaluated against "good engineering practices" as defined by certain recognized engineering manuals. The agency interprets the level of control that will arise from this evaluation to be consistent with RACT. With respect to applicable test methods for determining compliance with the above regulations, pursuant to 40 CFR 52.12(c)(1), the appropriate methods prescribed in 40 CFR Part 60 shall apply in those cases where a state has not adopted methods under the State Implementation Plan in accordance with the rulemaking requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

On April 30, 1979, Florida submitted revisions to the SIP that consist of regulations for all of the above categories except petroleum refineries, synthesized pharmaceuticals, and rubber tire manufacture. The state has certified that no such sources exist in the Florida nonattainment areas. (The state has made the regulations applicable only to counties that are designated nonattainment.)

On December 22, 1978, South Carolina submitted revisions to the SIP that consist of regulations for all the above categories except petroleum refineries, auto coating, fugitive emissions from refineries, perchloroethylene dry cleaning, and leaks from gas tank trucks and collection systems. The state has certified that no sources in these five categories exist that have potential emissions of 100 tons per year or more. These regulations are applicable to all counties within the State of South Carolina, except for counties designated attainment. South Carolina has test method and procedures for determining compliance with the state's VOC regulation in an appendix of their SIP. Furthermore, the state has certified in writing to EPA that they are in the process of incorporating EPA's method 25 in their test procedures and will use this test method to determine compliance for appropriate add-on controls. With respect to applicable test methods for determining compliance with the above regulations, pursuant to 40 CFR 52.12(c)(1), the appropriate methods prescribed in 40 CFR Part 60 shall apply in those cases where a State has not adopted methods under the State Implementation Plan in accordance with the rulemaking requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

On June 28, 1979, July 2, 1979, and May 8, 1980, Tennessee submitted revisions to the SIP that consist of regulations for all of the above categories. These regulations are applicable to all counties within the State of Tennessee. However, one regulation, 1200-3-18-.23 Petroleum Refinery Leaks, allows an open-ended negotiation process for determining an inspection protocol. This approach has credibility considering the different plant size configurations. When this approach is used, the agency must ensure that any negotiated inspection protocol will consistently reduce leaks at the affected facility. Therefore, use of this regulation will require a source-specific SIP revision for each affected facility.

On June 6, 1979, Kentucky submitted revisions to the SIP that consist of regulations for all of the above categories except leaks from gas tank trucks and collection systems. The Commonwealth's VOC regulations are not fully approvable because of the lack of an appropriate tank truck certification regulation. The state has indicated that they will submit an adopted VOC regulation for gas tank trucks and collection systems by October 1, 1981. Further, Kentucky has made these regulations applicable to a portion of the State, including all nonattainment areas and some areas designated unclassifiable. For nonurban areas where the regulations apply, new sources will be able to locate under an accommodative SIP. This means that no offsets will be required. The regulations do not apply to areas designated attainment and in some unclassified areas.

For a number of the unclassified counties where the regulations do not apply, the Commonwealth has

requested, based on recent monitoring data, that EPA redesignate these counties as attainment. For the remainder, a monitoring program will be conducted during the summer of 1981. The Commonwealth believes that these areas will also show attainment. The effect on exempted unclassified counties is two-fold:

(1) Sources that would otherwise have to control will not be required to; and

(2) New VOC sources subject to PSD wishing to locate in these areas will not have the benefit of an accommodative SIP. They will therefore be required to perform preconstruction monitoring and, if nonattainment is indicated, secure the necessary emission offsets. However, if EPA subsequently redesignates the counties to attainment, offsets and preconstruction monitoring would not be required. If they are subsequently redesignated to nonattainment, offsets would be required for new sources while a SIP was being prepared and EPA is acting on that SIP (a maximum of 18 months).

At the present time, Garrard, Graves, Hopkins, Laurel, Montgomery, Nelson, Pulaski, Scott, Taylor, Triggs, and Union Counties are exempted from 401 KAR 61:122, Existing Graphic Arts Facilities; 401 KAR 61:124, Exising Factory Surface Coating Operations; 401 KAR 61:132, Existing Miscellaneous Metal Parts and Products; 401 KAR 61:137, Leaks from Existing Petroleum Refinery Equipment; 401 KAR 61:150, Existing Synthesized Pharmaceutical Product Manufacturing; KAR 61:155, Existing Pneumatic Rubber Tire Manufacturing Plants; and KAR 61:160, Existing Perchloroethylene Dry Cleaning. Further, Kentucky has provided for a variance provision in all their regulations. Any variances must be submitted as SIP revisions. Kentucky has certified in writing that they will use methods 90, 91 and 95 for determining add-on control efficiency. These methods (90 and 91) are equivalent to EPA methods 24 and 25 with method 95 being used for testing bulk terminal facilities. With respect to applicable test methods for determining compliance with the above regulations, pursuant to 40 CFR 52.12(c)(1), the appropriate methods prescribed in 40 CFR Part 60 shall apply in those cases where a state has not adopted methods under the State Implementation Plan in accordance with the rulemaking requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

With the exception of the missing tank truck certification regulation in the Commonwealth of Kentucky, EPA believes that all five state's regulations are consistent with RACT.

Proposed Action

EPA proposes to conditionally approve the Commonwealth of Kentucky's VOC regulations subject to the state submitting adopted regulations for leaks from gas tank trucks and collection systems by October 1, 1981. Furthermore, EPA proposes to approve these revisions in the Georgia, Florida, South Carolina, and Tennessee VOC regulations. The public may participate in this rulemaking by submitting written comments. After weighing pertinent comments received together with all other information available to him, the Administrator will take final action.

Purusant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that the attached rule (46 FR 8709) will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would merely ratify requirements already in effect under State law, and would have no significant economic impact.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sections 110, 172, and 301 of the Clean Air Act as Amended)

Dated: June 4, 1981.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-21596 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1884-8]

Approval and Promulgation of Implementation Plans; South Carolina: Proposed Plan Revision for VOC Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: After public hearing on November 24, 1980, the South Carolina Department of Health and Environmental Control adopted alternative schedules of compliance as a part of 62.5, Standard No. 5, Section II, Part H of South Carolina's Rules and Regulations on December 18, 1980. The revision was formally submitted to EPA on January 5, 1981. Upon review of these schedules for volatile organic compounds (VOC) compliance, EPA is today proposing to approve the revision. The public is invited to submit written comments on this proposed action.

DATE: Comments must be submitted to EPA, Region IV on or before August 24, 1981.

ADDRESSES: The South Carolina submittal may be examined during normal business hours at the following offices:

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201

Comments should be addressed to Mr. Wally Warren, EPA Region IV, Air Program Branch, 345 Courtland Street, N.E., Altanta, Georgia 30365, Phone 404/881-3286 or FTS 257-3286.

FOR FURTHER INFORMATION CONTACT: Mr. Wally Warren, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On January 12, 1978, the South Carolina Department of Health and Environmental Control adopted regulations for the control of VOC's and after reviewing the submitted regulations, EPA conditionally approved the submitted regulations on January 29, 1980 (44 FR 6572).

On January 5, 1981, South Carolina submitted an alternative compliance schedule for W. R. Grace and Company of Simpsonville, South Carolina. For it to be part of the VOC plan for South Carolina, this plan revision was subjected to a public hearing on November 24, 1980 and was approved by the State on December 18, 1980.

The company is proposing to comply with the VOC requirements by employing low solvent technology. The compliance schedule will require a 57% emission reduction by December 31, 1983, a 67% emission reduction by June 30, 1984, and a 75% emission reduction by December 31, 1984. Besides these requirements, the company will report on the development of low solvent technology for the laminate, film, and bag usages by July 1, 1982. If the

company cannot show that commercialization development has progressed to a point where usage of waterbase white and solvent base colors on the laminate presses is practical by this date, then installation of a fluidized carbon absorption system (or approved equivalent) will be installed. This procedure will achieve the emission reduction specified in Regulation 62.5, Standard No. 5, Section II, Part H (Graphic Arts—Rotogravure and Flexography) by December 31, 1984.

PROPOSED ACTION: Based on the previous information EPA is today proposing to approve the alternative compliance schedule for the Cryovac Division of W. R. Grace and Company.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for this finding is that the Federal action proposed only approves state actions and imposes no requirements on any entity.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely ratifies State actions and imposes no new burden on sources.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Section 110(a) and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: June 15, 1981.

Rebecca W. Hanmer

Regional Administrator.

[FR Doc. 81-21496 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PH-FRL-1872-6; PP 7E1914/P116]

Cross-Link Nylon-Type Encapsulating Polymer; Proposed Exemption From the Requirement of a Tolerance

Corrections

In FR Doc. 81-19306 appearing on page 35353 in the issue of Wednesday, July 1, 1981, make the following changes:

1. On page 34353, second column, ninth line from the bottom, the first "by" should read "be"; third column, second full paragraph, third line from the bottom, insert "any" after "there".

2. On page 34354, first column, the nine lines at the bottom of the page should be transferred up and placed below the line that reads:

"(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e)))"

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 74

[Gen. Docket No. 81-415; RM-3075; FCC 81-292]

Amendment To Allocate a Certain Frequency Band to TV Auxiliary Broadcast Pickup Stations On a Secondary Basis

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC is proposing certain rules that would add a band of frequencies to those currently available to TV auxiliary broadcast pickup stations.

Due to heavy usuage of the other allocated bands and a need to provide for future growth of this service, this further allocation is proposed. This proposed rulemaking is in response to a petition filed by CBS, Inc., which intends to use this band for relaying television signals over short distances in conjunction with electronic newsgathering activities.

Use of the proposed band by TV auxiliary broadcast pickup stations would be on a secondary, or non-interference basis, to the primary services in the 38.6–40 GHz band.

DATES: Comment deadlines: Comments must be submitted on or before September 18, 1981 and reply comments on or before October 19, 1981.

ADDRESSES: Comments may be mailed to the Secretary, Federal Communications Commission, Washington, D.C. 20554 or delivered to Room 222, FCC, 1919 M St., NW, Washington, D.C., between 8:00 a.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Melvin Murray, Spectrum Utilization Branch, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 653–8168.

In the matter of amendment of Parts 2 and 74 of the Commission's Rules and Regulations to allocate the 38.6–40 GHz band to TV Auxiliary Broadcast Pickup stations on a secondary basis, Gen. Docket 81–415, RM–3075.

Adopted: June 30, 1981.

Released: July 20, 1981.

By the Commission: Commissioners Forgarty and Jones absent.

1. On March 8, 1978, the Commission received a petition for rulemaking (RM–3075), filed by CBS, Inc., to amend §§ 2.106, Table of Frequency Allocations, and 74.602, Frequency Assignments for Television Auxiliary Broadcast Stations. The petitioner has requested the addition of the frequency band 38.6–40 GHz to the bands currently available to Television Auxiliary Broadcast Pickup Stations (TV Aux. Bcst.). TV Aux. Bcst. pickup stations currently are assigned to 1990–2500 MHz (band A), 6875–7125 MHz (band B), and 12.7–13.25 GHz (band D).[1]

The Petition

2. CBS indicates that it became aware of the potential of the 40 GHz band for television pickup use in the course of a development contract for the U.S. Navy. It claims new equipment and materials technology have made the utilization of the band quite feasible, in particular for use in very short distance temporary fixed links as in a Television Pickup Station.[2] Its request for allocation of the 38.6–40GHz band is accordingly interpreted for use by this class station.[3]

3. With respect to further utilization of the currently allocated bands (i.e., Bands A, B, and D stated in paragraph 1 herein), CBS, Inc., claims that "virtual saturation has been reached in Bands A and B in New York, Chicago, Los Angeles, and Philadelphia; and, the situation is approaching saturation in many other large cities. Band D, which lay almost fallow for years, has already reached virtual saturation in New York and Los Angeles and severe shortages are developing in many other large cities."

4. CBS further contends that the "previously exclusive television broadcast auxiliary allocations have been eroded by assignments to other services. Several frequencies in Band A have been made available for use by the federal government in connection with space research programs. All of Band B has been made available to the fixed-satellite service for domestic satellite

[1] In a Notice of Proposed Rule Making in Docket No. 81–272 (46 FR 26507, May 13, 1981) adopted April 23, 1981, the Commission also proposed that the band 6.425–6.525 GHz be allocated for use by TV Pickup stations on a secondary basis to the local Television Transmission Service under subpart J of Part 21 of the Commission's Rules.

[2] We note that CBS, Inc., has been granted an authorization for a station (KI2XHT) in the Experimental Service (Developmental) to carry out the development of equipment operating in the 38.6–40 GHz band.

[3] Under § 74.601 (Subpart F of Part 74) there are listed four classes of Television Auxiliary Broadcast Stations: Television pickup, Television STL, Television intercity relay, and Television translator relay.

'downlinks'." Additionally, it claims that all of Band D is shared on a primary basis with Cable Television Relay Stations (CARS).

Comments Received

5. Comments supporting the Petition *in toto* were received from American Broadcasting Companies, Inc. (ABC), National Association of Broadcasters (NAB), National Broadcasting Company, Inc. (NBC) and the Public Broadcasting Service (PBS).

6. However, in comments, dated October 16, 1980, the Siemens Corporation points out that it has also developed equipment for use in the 38.6–40 GHz band. Designated by Siemens as the FSK–30,000, this equipment employs digital transmission for two-way communication in industrial applications. An an example in railroad "yards," communication of operating data such as train location, safe speeds, maximum efficient energy consumption speeds would be conveyed between railroad rolling stock and a central point. Because of its low power (approximately 50 milliwatts ERP) and the narrow beam, line-of-sight propagation characteristics of the band, Siemens foresees the potential for possible objectionable interference as being minuscule. At the present time, the system is being tested at Siemens' facilities in Germany and expects to request FCC equipment approval within the next several months.

7. In assessing the need for a futher allocation, we have reviewed the growth in numbers of TV auxiliary broadcast pickup stations. In 1970, there were approximately 560 such stations operating collectively in Bands A, B, and D. By the end of 1979 this number had grown to nearly 1850. In Los Angeles, the percentage of pickups to all other TV Auxiliary stations in 1979 was about 58 percent; in New York, this number was 70 percent. Nationwide, this percentage was approximately 35 percent. In the First Report and Order in Docket No. 21505[4] CBS had stated that future growth in the number of stations using ENG[5] would be leveling off and Microwave Associates expected that 60 percent of any future growth would occur in the smaller markets. However, in light of current congestion problems, in Bands A, B, and D and the fact that some continued growth in the use of "ENG" is anticipated we are persuaded that CBS' request for this allocation is reasonable and justifiable.

The 38.6–40 GHz Band

8. At the present time, within the United States, this non/government band is allocated to Fixed and Mobile services on a shared, co/equal primary basis. Under Parts 21 and 94, stations may be authorized in the Point-to-Point Microwave Service and the Private Operational/Fixed Microwave Service, respectively. There have been several authorizations granted in the past for such fixed links. However, it is our understanding that these links have had difficulties in providing reliable service due to higher attenuation from rain at these frequencies. Accordingly, for the present, such 40 GHz links may be acceptable only for those areas with minimal rainfall. On the other hand, "short-distanced" links as would be used by ENG and similar TV auxiliary pickup stations would seem to be ideally suited for this higher-frequency bank. However, to ensure that fixed links receive adequate protection from pickup operations we propose that TV auxiliary broadcast pickup operations be made a secondary service in this band, as it now is in Band D. [6] Because of the relatively lower power of ENG and similar TV auxiliary broadcast pickup transmitters and their limited transmission range,[7] we do not expect their usage to constitute a significant interference potential to fixed users.

9. For informational purposes we point out that the World Administrative Radio Conference (WARC) in 1979 reallocated the 37.5–39.5 GHz band to Fixed, Fixed-Satellite (space-to-Earth), and Mobile radio services and the 39.5–40.5 GHz band to Fixed, Fixed-Satellite (space-to-Earth), Mobile, and Mobile-Satellite (space-to-Earth) services. In view of this, it is anticipated that sharing between Fixed-Satellite, Mobile-Satellite and terrestrial services in the United States will be proposed in a separate rulemaking proceeding dealing with the provisions of the 1979 WARC. Although we do not anticipate a problem with the sharing of these services, we do not know at this time the extent of satellite operations in this band or how they will affect terestrially based services. It is with this in mind that we are soliciting coments regarding the proposed allocation. In the attached apendices we have included several pertinent extracts from the Final Acts of the World Administrative Radio Conference.[8]

Techincal Standards

10. CBS, Inc., in its Petition, suggested a maximum authorized bandwidth of 50 MHz for the proposed allocation, as is now specified in the 38.6–40 GHz band for the Point-to-Point Microwave Radio Service (§ 21.703) and the Private operational-Fixed Microwave Service (§ 94.71). We are uncertain at this time whether or not 50 MHz or some other limit should be proposed. One manufacutrer has developed equipment capable of transmitting three television channels using FDM–FM [9] in a 100 MHz channel. It may be benificial not to assign channel boundaries to permit manufacutrers the flexibility to design equipment with a higher degree of spectrum efficiency than has been previously possible. Accordingly, we ask comments that address this matter.[10]

If channel boundaries are not adopted for this service in the proposed band, as discussed in the previous paragraph, then we propose that the carrier frequency be maintained within a tolerance of 0.005 percent. Otherwise, if lower and upper frequency boundaries are adopted, then a frequency tolerance specification appears to be unnecessary. We are further proposing that the rated power output of a tramsmitter used in a pickup station for this band be limited to 1.5 watts. This limit should provide such a station satisfactory techincal opeartion over the relatively short transmision paths that would be used in this service.

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[4] 44 FR 32377, June 6, 1979.

[5] An Electronic Newsgathering (ENG) system using a mobile TV Camera is a TV auxiliary broadcast pickup station when program information is relayed via a microwave link operating in any of the currently allocated frequency bands.

[6] Stations of a secondary service: (a) shall not cause harmful interferece to stations of primary or permitted services to which frequencies are already assigned or to which frequencies may be assigned at a later date. (b) cannot claim protection from harmful interference from stations of a primary or permitted service to which frequencies are already assigned or may be assigned at a later date; (c) can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date.

[7] The transmitter associated with a TV pickup station generally is used with a portable or fixed receiver to provide a temporary transmission link over very short distances varying from about 100 meters to perhaps a few kilometers.

[8] We do not anticipate that satellites will be using this band before 1990 for at least two reasons: (1) lower frequency bands for satellite usage will most likely be taken advantage of first, and (2) teachnology has not suficiently advanced to the point that transmitters with sufficient power are realizable for Satellite-Earth usage. We expect, however, that TV auxiliary broadcast pickup stations would also be secondary to any such space services that may be implemented in the future in the 38.6-40 GHz band.

[9] FDM/FM is generally considered to be a process by which individual channels are separated in frequency, thereby permitting more than one channel to be carried on a single carrier.

[10] We are presently looking at ways to improve the efficiency of spectrum utilization in the 2, 7, and 13 GHz TV auxiliary broadcast bands. For these bands, it is anticipated that this matter will be addressed in a separate rulemaking proceeding in the near future.

12. We are not proposing any performance standards for antennas; to do so would restrict the flexibility of ENG and similar TV Pickup operations. However, interference considerations necessitate that such operations be secondary to the primary services already allocated to this band.

13. Other technical considerations such as "emissions and emission limitations," and "modulation limits" are found within the existing Subpart F of Part 74 Rules. Type acceptance of a transmitter used in a Pickup station will be required if its peak output power exceeds 250 mW. Type acceptance will accordingly *not* be required if the transmitter's peak output power is 250 mW or less.

14. Pursuant to Section 605(b) of the Regulatory Flexibility Act, Pub. L. 96–354, we find that the proposed action herein would not have, if adopted, a significant economic impact on a substantial number of small busineses. It does not propose to displace anyone assigned to this band nor to harm their existing operations. The spectrum allocation proposed herein would only provide broadcast stations of whatever size the further option to operate their pickup stations in the 38.6–40 GHz band. As noted elsewhere, this option already exists in other bands allocated for this purpose. Moreover, because the broadcast use of the spectrum will be on a secondary basis, existing and future users will not be adversely affected.

15. Authority for issuance of this *Notice* is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before September 18, 1981, and reply comments on or before October 19, 1981.

All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

17. For further information concerning this Notice, contact Melvin J. Murray, FCC, Office of Science and Technology, Spectrum Utilization Branch, Washington, D.C. 20554, telephone (202) 653–8168. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to members of the Federal Communications Commission in this proceeding must be disclosed in the public docket file. A summary of the Commission's procedure governing *ex parte* contacts in rulemaking proceedings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–2700. This is also set out in the Commission's Rules in § 1.1231.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—"Article N7/5: Frequency Allocations" Final Acts of the World Administrative Radio Conference, Geneva, 1979

Region 1 allocation GHz	Region 2 allocation GHz	Region 3 allocation GHz
37.5–39.5	Fixed Fixed-Satellite (space-to-Earth) Mobile 3807C	
39.5–40.5	Fixed Fixed-Satellite (space-to-Earth) Mobile Mobile-Satellite (space-to-Earth)	
3807C	Subject to an agreement obtained under the procedure set forth in Article N13A, the bands 37–39 GHz may also be used in Japan for Earth-to-space transmissions in the fixed-satellite service up to December 1990.	

Appendix B

It is proposed that Parts 2 and 74, Chapter I, Title 47 of the Code of Federal Regulations be amended as follows:

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106, columns 7 through 11 for the band 38.6–40 GHz are amended as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

Federal Communications Commission

7 Band (GHz)	8 Service	9 Class of Station	10 Frequency (GHz)	11 Nature of services of stations
38.6–40 (NG 123)	FIXED MOBILE	Television Pickup		

* * * * *

NG123 Television pickup stations may be authorized to use frequencies in this band on a secondary basis to stations operating in the fixed services.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

2. In § 74.602(a) the frequency table is amended by adding "38.6–40 GHz [3]" to the end of the table and by adding the following footnote:

§ 74.602 [Amended]

* * * * *

[3]The band 38.6–40 GHz is available for usage by Television Pickup stations on a secondary basis to fixed stations.

3. In Section 74.636, the table is revised to read as follows:

Band	Power limit	Class of station
A (1990-2500 MHz)	20 Watts	Fixed.
	12 Watts	Mobile.
B (6875-7125 MHz)	20 Watts	Fixed.
	12 Watts	Mobile.
D (12.7-13.25 GHz)	5 Watts	Fixed.
	1.5 Watts	Mobile.
38.6-40 GHz	1.5 Watts	Mobile.

[FR Doc. 81-21641 Filed 7-22-81; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-433; RM-3803]

FM Broadcast Station College, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 280A to College, Alaska, in response to a petition filed by the Associated Students of the University of Alaska. The assignment would provide College with a first local aural service.

DATES: Comments must be filed on or before September 14, 1981, and reply comments must be filed on or before October 5, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (College, Alaska), BC Docket No. 81-433 RM-3803.

Adopted: July 6, 1981.

Released: July 15, 1981.

1. A petition for rule making [1] was filed by the Associated Students of the University of Alaska ("petitioner"), requesting the assignment of Channel 280A to College, Alaska, as that community's first FM assignment. Petitioner states that it will apply for the channel, if assigned to College. No responses to the petition have been received. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. College (population 3,434),[2] in the Fairbanks Division (population 45,864) is located approximately 6.4 kilometers (4.0 miles) west of Fairbanks, Alaska. It currently has no local service.[3]

3. Petitioner states that the population of College increased approximately 96% between 1960-1970, and that during that same decade, the number of housing units increased from 427 to 866, an increase of 102.8%. According to petitioner, the primary activity in College, and the base of the community's economic existence, is higher education. It states that considerable retail sales activity is attributable to the supply and support of the campus community. Petitioner indicates that within the Fairbanks Division (an area comprised of 18,321 square kilometers (7,074 square miles)) are 23 manufacturing and 239 retail establishments. Petitioner has submitted sufficient data to demonstrate the need for a first FM assignment to College, Alaska.

4. Since the assignment proposed herein is within 400 kilometers (250 miles) of the U.S.-Canada border, Canadian concurrence must be obtained.

5. In view of the fact that the proposed FM channel would provide a first local aural FM broadcast service to College, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.207(b) of the Commission's Rules, with regard to that community, as follows:

City	Channel No.
College, Alaska	280A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 14, 1981, and reply comments on or before October 5, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-433 RM-3803]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in

[1] *Public Notice* of the petition was given December 5, 1980, Report No. 1261.

[2] Population figures are taken from the 1970 U.S. Census.

[3] The University of Alaska is the licensee of Class C educational Station KUAC-FM (Channel 284) in Fairbanks, Alaska.

reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-21603 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-437; RM-3840]

FM Broadcast Station Delhi, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign FM Channel 228A to Delhi, Louisiana, as its first FM channel in response to a petition from Baker Broadcasting Enterprises.

DATES: Comments must be filed on or before September 21, 1981, and reply comments must be filed on or before October 13, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1981.

Released: July 21, 1981.

By the Chief, Policy and Rules Division:

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Delhi, Louisiana); BC Docket No. 81-437 RM-3840.

1. The Commission herein considers a petition filed by Baker Broadcast Enterprises ("petitioner") proposing the assignment of FM Channel 221A to Delhi, Louisiana, as that community's first FM assignment. No comments opposing the assignment were received.

2. Delhi (population 3289), located in Richland Parish (population 22,096)[1], presently has no local aural service. Delhi is located approximately sixteen miles west of Rayville (population 4,552), the Richland Parish seat.

3. In another proceeding, BC Docket 81-346, Channel 221A was recently proposed for Rayville, Louisiana, which is approximately 24 kilometers (15 miles) from Delhi. To avoid the short spacing, we have determined that Channel 228A can be proposed to Delhi instead.

4. According to the petitioner, Delhi's chief industry is the manufacturing of boats and antique automobile bodies. The community also is said to be a thriving agricultural community where large amounts of cotton, soybeans, pecans, timber, and various other crops are grown and marketed.

5. In view of the interest expressed in the proposed assignment and the provision of a first local aural service thereby, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as to the following community.

City	Channel No.	
	Present	Proposed
Delhi, Louisiana		228A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and incorporated by reference herein.

Note.—A showing of continued interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 21, 1981, and reply comments on or before October 13, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* FR 11549, published February 9, 1981.

[Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303]

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) Discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments.

[1] Population data are taken from the 1970 U.S. Census.

They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel that was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420(a), (b) and (c) of the Commission's Rules.

5. *Number of Copies.* In accordance with the provisions of §1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-21633 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-438; RM-3725]

FM Broadcast Station in Redmond, Oreg.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Class C Channels 275 and 298 to Redmond, Oregon, and the modification of the license of Station KSBC, Redmond, to specify operation on Channel 275. Alternatively, the action proposes the assignment of Channel 252A to Redmond as that community's second FM assignment. This action was initiated in response to a request by the Oregon Broadcasting Company.

DATE: Comments must be filed on or before September 8, 1981, and reply comments on or before September 28, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Redmond, Oregon), BC Docket No. 81-438, RM-3725.

Adopted: July 9, 1981.

Released: July 17, 1981.

1. Before the Commission is a petition for rule making[1] filed by the Oregon Broadcasting Company ("petitioner") seeking the assignment of Class C FM Channel 275 to Redmond, Oregon, as that community's second FM assignment. Petitioner states that if the channel is assigned, it will apply for authority to build and operate a station. No comments on the petition were filed.[2] The channel can be assigned in accordance with minimum distance separation requirements.

2. Redmond (population 3,721)[3], in Deschutes County (pop. 30,442), is located approximately 265 kilometers (165 miles) southeast of Portland, Oregon. Redmond is presently served by FM Station KSBC (Channel 224A) and fulltime AM Station KPRD.

3. In support of its request, petitioner states that the population in Redmond grew to 6,450 by 1978 according to Oregon State estimates. Petitioner asserts that Redmond is the geographic and trading center of the centeral Oregon area. According to petitioner, the two largest contributors to Redmond's economy are the agricultural and lumbering industries.

4. The preclusion study submitted by petitioner indicates that the assignment of Channel 275 to Redmond will cause preclusion on Channels 272A, 273, 274, 275, 276 and 278. Nine communities with populations over 1,000 lie within the precluded areas.[4] Alternative channels are available for assignment to the precluded communities. Petitioner states that the assignment would provide first FM service to 8,100 persons in a 5,427 square kilometer (2,120 square mile) area, and a second FM service to 1,800 persons in an area of 1,075 square kilometers (420 square miles).[5]

5. The assignment of Channel 275 to Redmond would create intermixture with Station KSBC, the Class A channel currently operating in Redmond. To avoid intermixture, the Commission generally attempts to upgrade the Class A station to Class C facilities by assigning a second Class C channel and modifying the Class A station's license. A staff study indicates that Class C Channel 298 can be assigned to Redmond with a site restriction of approximately 17.7 kilometers (11 miles) southwest. However, the existing transmitter site of Station KSBC cannot accommodate the necessary site

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[1] Public Notice of the petition was given August 13, 1980, Report No. 1244.

[2] In its comments in BC Docket No. 80-491, proposing the assignment of Channel 243 to Madras, Oregon, Capps Broadcasting Group, Inc. ("Capps") moves to consolidate that proceeding with three other pending rule makings, including this one. Capps states that all four proposals seek to add Class C FM channels to the central Oregon area. Capps requests the consolidation so that the four proceedings may be examined jointly to determine the viability of the proposed stations and their effects on the service offered by existing stations in the area. The proceedings which Capps seeks to have consolidated are, in addition to the Madras proposal and the present proceeding concerning Redmond, include RM-3660 seeking the assignment of Channel 248 to Bend, Oregon, and RM-3708, seeking the assignment of Channel 289 to Bend, Oregon (BC Dkt. 81-155). KBND, Inc., the petitioner in RM-3708, opposes Capp's motion for consolidation as a blatant effort by an established broadcaster to seek economic relief. We have taken note of the ramifications of the possible assignments in paragraph 6, *infra*, and have alternatively proposed a second Class A assignment due to the possible impact of the other proposed Class C assignments. As we have determined in the other cases, however, consolidation is not necessitated in order to consider the reciprocal impact.

[3] Population figures are taken from the 1970 U.S. Census.

[4] The precluded communities, all of which are located in Oregon, are: Bend, Prineville, Lakeview, Madras, Burns, Hines, Klamath Falls, Altamont and Falcon Heights.

[5] Petitioner's first and second service showings may be overstated. It appears that petitioner may have understimated the coverage area of Station KICE, Bend, Oregon.

restriction for Channel 298, and, as a general matter, the Commission will not require the relocation of a licensee's transmitter site without the licensee's consent. Therefore, in this instance, we shall propose to assign both Channel 275 and Channel 298 to Redmond, and further propose to modify the license of Station KSBC to operate on Channel 275, the channel originally sought by petitioner. This leaves Channel 298 open for competing applications in Redmond. Also, whenever an existing licensee is required to switch frequencies to accommodate a new assignment, we require the permittee of the new assignment to reimburse the station for the costs incurred in changing frequencies. Petitioner should therefore indicate whether it would be willing to reimburse Station KSBC for its costs in changing frequencies to Channel 275. Reimbursement for the expenses needed to upgrade the station's facilities to Class C status is not required.

6. Normally, high powered Class C channels are reserved for communities much larger than Redmond. Exceptions are made where the assignment of a Class C channel would provide first and second FM services to a significant population. In the instant case, petitioner asserts that the assignment of a Class C channel to Redmond will provide a first service to 8,100 persons and a second service to 1,800 persons. However, as noted above, there are currently three additional proposals pending which would, if granted, add Class C channels to the general vicinity of Redmond. Should those proposals be adopted, it is possible that the Redmond assignment would provide little or no new first or second FM service. In that event, the assignment of a Class C channel to Redmond may be improper. Therefore, we are proposing an alternative assignment of Channel 252A to Redmond. This alternative would also eliminate the need for Station KSBC to change its operating frequency. Interested parties should indicate whether they would be interested in applying for a Class A channel in Redmond in the event that the Commission determines that a Class C assignment is not justified.

7. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with respect to Redmond, Oregon, as follows:

Alternative I

City	Channel No.	
	Present	Proposed
Redmond, Oreg	224A	275, 298

Alternative II

Redmond, Oreg	224A	224A, 252A

8. It is ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, Sonshine Broadcasting Corporation, the licensee of Station KSBC, Redmond, Oregon, shall show cause why its license should not be modified to specify operation on Channel 275 as proposed in Alternative I herein instead of the present Channel 224A.

9. Pursuant to § 1.87 of the Commission's rules, Sonshine Broadcasting Corporation may, not later than September 8, 1981, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Sonshine may, not later than September 28, 1981, file a written statement showing with particularity why its permit should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Sonshine to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Sonshine will be deemed to have consented to the modifications as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the above channel modifications are ultimately found to be in the public interest.

10. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before September 8, 1981, and reply comments on or before September 28, 1981.

12. It is further ordered, that the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this *Notice and Order to Show Cause* to Sonshine Broadcasting Corporation, P.O. Box 123, Bend, Oregon 97701, the licensee affected by the *Order to Show Cause*.

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

14. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 81-438 RM-3725]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in

reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-21802 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-421; RM-3130; FCC 81-306]

Amendment To Permit Increased Antenna Height of Class A FM Commercial Broadcast Stations in Puerto Rico and the Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In response to a petition filed by Radio Musical Incorporated, this action proposes to permit Class A FM broadcast stations in Puerto Rico and the Virgin Islands to operate with increased antenna height. The increase is being proposed to permit Class A stations to regain portions of their service area lost when Class B stations were permitted to increase their antenna height and to compensate for the unusually rugged terrain found on these islands.

DATES: Comments must be filed on or before September 15, 1981 and reply comments must be filed on or before October 15, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: June 30, 1981.

Released: July 17, 1981.

By the Commission: Commissioners Fogarty and Jones absent.

In the Matter of Amendment of § 73.211(b)(3) of the Commission's Rules to Permit Increased Antenna Height of Class A FM Commercial Broadcast Stations in Puerto Rico and the Virgin Islands; BC Docket No. 81-421, RM-3130.

1. The Commission has before it for consideration a petition for rule making filed by Radio Musical Incorporated ("RMI"), licensee of Class A FM Station WBRQ at Cidra, Puerto Rico.[1] The petiton requests amendment of rule Section 73.211(b)(3) to permit the operation of Class A FM stations with 3 kW effective radiated power (ERP) at antenna heights of 1200 feet above average terrain (AAT) in Puerto Rico and the Virgin Islands. At antenna heights above 1200 feet, RMI suggests the station's power should be reduced appropriately to prevent an increase in the service area from that possible with the proposed maximum facilities. The maximum facilities now permitted Class A stations are 3 kW power at an antenna height of 300 feet AAT regardless of location.

Background

2. The petitioner submits that the irregularity of the terrain in Puerto Rico and the Virgin Islands severely limits the coverage of all FM radio stations in the area, and particularly that of Class A stations due to their existing power and antenna height limitations. This irregularity and its effect on achieving adequate coverage was recognized and acted upon by the Commisison in Docket No. 14185, *Fourth Report and Order*, adopted on October 7, 1964.[2] In that *Report and Order*, Class B stations in Puerto Rico and the Virgin Islands were authorized to operate with antenna heights of 2,000 feet AAT and a maximum ERP of 25 kW. Class B stations elsewhere operate with maximum facilities of 50 kW ERP and an antenna height of 500 feet AAT.

3. At the time of the Commission's action in the *Fourth Report and Order* there were no Class A stations or allotments in either Puerto Rico or the Virgin Islands. They were later assigned based on the mileage separation requirements without compensating for the excessive facilities allowed for Class B stations. The petitioner asserts that Class A stations' actual coverage areas are limited due not only to the rough terrain but also by the facilities permitted Class B stations. Thus, the petitioner is seeking relief in the form of increased antenna height.

Discussion

4. Greater than normally expected signal attenuation as a result of rugged terrain is a recognized physical phenomenon. Methods of dealing with the adverse effects of terrain have been developed by the commission but are currently under additional study and review.[3] While this proposal arises as a result of the terrain situation in Puerto Rico and the Virgin Islands, terrain effect methodology is not under consideration here. That matter will be pursued in connection with a future Commission action such as that in connection with rule making petition RM-3367.[4] In the instant proceeding we have chosen to examine the relationship of Class A to Class B stations in terms of theoretical coverage areas. As a result of this examination we are persuaded changes in the Class A FM commercial station antenna height limitation should be proposed.

5. The Commission began its analysis of the petitioner's proposal by comparing the computed service areas obtainable by first-adjacent channel Class A and Class B stations in Puerto Rico and the Virgin Islands with those obtainable by the same stations on the U.S. mainland. Since the separation requirements and the Class A facilities

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[1] Radio Musical is also a participant in BC Docket 80-520 in which it, as the licensee of Station WBRQ, as well as two other licensees seek to upgrade their Class A stations to occupy Class B assignments. Since the proposal here may have a significant impact on their plans to increase coverage area as well as their pursuit of Class B assignments, we shall serve this *Notice of Proposed Rule Making* on each party to that proceeding and also withhold action on BC Docket 80-520 until an opportunity to submit comments to the instant proposal is given.

[2] 29 FR 14116, October 14, 1964.

[3] *Report and Order* in Docket Nos. 16004 and 16052, 52 F.C.C. 2d 855 *but see*, 56 F.C.C. 2d 749, 750 (1975).

[4] RM-3367 was filed by the National Telecommunications and Information Administration requesting a number of changes in the FM broadcast rules. Among other matters is sought amendment to permit consideration of terrain effects.

permitted are identical, changes in the protected service area of each class of station are due solely to the difference in the Class B station facilities permitted in Puerto Rico and the Virgin Islands. By applying the signal protection ratios found in Section 73.509(d)(3) [5], in this acknowledged idealized situation, we found that an increase in the Class A station's antenna height merely restores the approximate service radius, in the direction of the interfering Class B station, to that which would occur if both classes of stations were operating with standard maximum facilities.

6. For example, Class B stations with standard maximum parameters (50 kW, 500 ft.) located the minimum distance of 105 km (65 miles) from first-adjacent) channel Class A stations with standard parameters (3 kW, 300 ft.), receive −6 dB interference signal protection out to their 57 dBu field strength contour extending approximately 61 km (38 miles) in the direction of the Class A station. The Class A stations in this case receive −6 dB protection out to just beyond their desired 60 dBu contour, extending approximately 22.5 km (14 miles) in radius. Presently, in Puerto Rico and the Virgin Islands, the Class B stations operating with the permitted maximum facilities (25 kW, 2,000 ft.) may receive −6 dB protection extending approximately 74 km (46 miles) (a 21% increase over the above service with standard facilities) in the direction of the Class A station. However, the Class A stations in this case receive −6 dB protection extending only approximately 14.5 km (9 miles) (a 36% loss of service) in the direction of the Class B station.

7. If Class A stations are permitted to raise their antenna height to 1,100 feet,[6] their originally intended −6 dB protection is restored, extending approximately 24 km (15 miles) in the direction of Class B stations. Conversely, the Class B stations' −6 dB protection is also returned to their originally intended approximate distance, extending 59.5 km (37 miles) in the direction of the Class A station. By comparision analysis, the impact of second and third adjacent channel stations is minimal and relatively insignificant. While both Class A and Class B stations may theoretically derive a greater coverage area, the interference free coverage radius directly between adjacent channel stations will approximately, equal, in distance, that originally intended.

[5] These protection ratios are those used for authorizing educational FM stations. Nonetheless, they are the same ratios originally used in establishing the distance separation requirements for co-channel and first adjacent channel assignments in the non-reserved portion of the FM broadcast band.

[6] In making the analysis, we note that while the petitioner has requested an antenna height of 1200 feet AAT, we find 1,100 feet sufficient to restore the original service radius.

Action

8. The Commission finds action on the proposal is warranted to bring Class A FM commercial stations within some degree of comparability, in terms of service area in the direction of adjacent channel Class B stations, to those located on the U.S. mainland. Therefore, the Commission proposes § 73.211(b)(3) to permit the operation of Class A FM commercial stations, in Puerto Rico and the Virgin Islands, with 3 kW ERP with antenna height at 1,100 feet AAT. At antenna heights above 1,100 feet, the power must be reduced so that the station's 1 mV/m contour extends no farther from the transmitter site than with the facilities of 3 kW at 1,100 feet.

9. *Regulatory Flexibility Act Initial Analysis*

I. *Reason for action:* This action is needed in order that Class A stations in Puerto Rico and the Virgin Islands may overcome the adverse impact of the irregular terrain found there and previous Commission action granting Class B stations there the right to operate with increased antenna height.

II. *The objective:* The objective is to theoretically restore the approximate service area of Class A FM stations in Puerto Rico and the Virgin Islands, to that intended by the Commission when it originally adopted the minimum distance separation requirements (see § 73.207 of the Rules).

III. *Legal basis:* This action is proposed in accordance with Section 303(c) and (f) of the Communications Act of 1934, as amended.

IV. *Description, potential impact and number of small entities affected:* The proposed rule amendment would directly affect five Class A FM commercial broadcast station licensees in Puerto Rico and the Virgin Islands; but, only if the individual stations elect to take advantage of the proposed rule by increasing their antenna heights. Also, six adjacent channel Class B station licensees could possibly be affected to some degree (if the related Class A stations should increase their antenna heights) by a predicted slight loss of coverage area.

V. *Recording, record keeping and other compliance requirements:* None.

VI. *Any significant alternatives minimizing impact on small entities and consistent with stated objective:* One Commission alternative is to await the outcome of BC Docket 80-520, adopted August 15, 1980, to which the petitioner, in the instant proceeding, is also a party.[7] That proceeding proposes to substitute Class B channels for three of the five Class A channels currently allocated to Puerto Rico. To accommodate those substitute channels, four Class B stations will have to change their channel assignments, which may pose a greater impact on those affected entities. Another Commission alternative, however, is to maintain the status quo, and associate this matter with any future action taken with respect to resolution of the terrain factor, such as in NTIA's petition RM-3367. (See footnote 3)

Filing Responses to This Notice

10. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR § 1.1231.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested parties may file comments on or before September 15, 1981, and reply comments on or before

[7] 45 FR 58624, September 4, 1980. Also, see footnote 1.

October 15, 1981. All relevant and timely comments and reply comments will be considered by the Commission before further action is taken in this proceeding. The commission may also consider any other relevant information brought to its attention.

12. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*. In accordance with the provision of § 1.419 of the FCC's Rules and Regulations, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the FCC. participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that BC Docket No. 81-421 is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW). Further information concerning this proceeding may be obtained from Bernard Gorden, Broadcast Bureau, 202-632-9660.

13. It is ordered That the Secretary shall serve by certified mail, return receipt requested this *Notice of Proposed Rule Making* on the following entities: all parties to BC Docket 880-520 and to Southwestern Broadcasting Corp., licensee of Station WGIT, Hormigueros, Puerto Rico, c/o Voz Villa Fontana Park, Carolina, Puerto Rico 00630 and to Carlos Rivera, licensee of Station WZOL, Luquillo, Puerto Rico, c/o P.O. Box 10547, Caparra Heights, Puerto Rico 00922.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

It is proposed to revise § 73.211(b)(3) to read as follows:

§ 73.211 Power and antenna height requirements.

* * * * *

(b) (3) In Puerto Rico and the Virgin Islands:

(i) Class B stations may use antenna heights up to 2,000 feet above average terrain with effective radiated powers up to 25 kW. For antenna heights above 2,000 feet the power shall be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 25 kW and antenna heights of 2,000 feet. For powers above 25 kW (up to 50 kW) no antenna heights will be authorized which result in greater coverage by the 1 mV/m contour than that obtained with the facilities of 25 kW and antenna heights up to 2,000 feet.

(ii) Class A stations may use antenna heights up to 1,100 feet above average terrain with effective radiated powers up to 3 kW. For antenna heights above 1,100 feet the power shall be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 3 kW and antenna height of 1,100 feet.

* * * * *

[FR Doc. 81-21460 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-512; RM-3595]

FM Broadcast Station in Tremonton, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of either Channel 264 or Channel 285A to Tremonton, Utah, as that community's first FM assignment. Additionally, further information is sought from petitioner, Bear River Broadcasting Company, Inc., regarding the location of its proposed transmitter site for a Tremonton station.

DATES: Comments must be filed on or before September 15, 1981, and reply comments on or before October 5, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 13, 1981.

Released: July 17, 1981.

By the Chief, Policy and Rules Division:

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Tremonton, Utah); BC Docket No. 80-512 RM-3595.

1. Before the Commission is a *Notice of Proposed Rule Making*, 45 FR 58622, published September 4, 1980, proposing the assignment of Class C FM Channel 264 to Tremonton, Utah, as that community's first FM assignment at the request of Bear River Broadcasting Company, Inc. ("petitioner"). Comments in response to the *Notice* were filed by petitioner, in which it indicated its intention to apply for the channel, if assigned, and by Simmons Family, Inc. ("Simmons"), licensee of FM Station KSFI, Salt Lake City, Utah. Late-filed reply comments were submitted by petitioner, to which Simmons responded.[1]

2. In its comments, petitioner states that in addition to being a first local FM service, a Class C station at Tremonton would provide a first FM service to 3,000 persons and a second FM service to 600 persons. Simmons opposes the assignment of Channel 264 to Tremonton due to the alleged interference such an assignment would cause to its FM translator operation on Channel 262 at Brigham City, Utah. Simmons also states that Tremonton is not large enough to justify the assignment of a Class C channel. Simmons counterproposes that either Channel 285A or 292A be assigned to Tremonton. In the alternative, Simmons states that if the Commission determines that a Class C channel is justified for Tremonton, either Channel 248 or Channel 290 should be assigned.

3. In reply comments, petitioner states that if the Commission is inclined to adopt one of the counterproposals, it should assign a Class C channel to Tremonton. Petitioner argues that precisely because Tremonton is small, a station there will have to cover a wide rural area in order to survive. Petitioner reiterates that a Class C channel in Tremonton will provide first and second FM service to substantial populations. In a subsequently filed supplemental pleading, petitioner claims that only Channel 264 can be utilized at the site which petitioner wishes to use. The channels suggested by Simmons, because of site restrictions, cannot be

[1] Petitioner states that it did not receive a copy of Simmons' counterproposal which is the reason for submitting its reply comment after the filing deadline. Because Simmons has taken the opportunity to respond to petitioner's comments on the merits, we shall accept petitioner's late filed reply.

located at the site which petitioner has purchased. For this reason, petitioner states that it cannot support the assignment of any channel to Tremonton other than Channel 264. In response to petitioner's reply, Simmons states that the site preference of petitioner cannot be considered in making an assignment decision such as this because the eventual permittee may not be the petitioner. Simmons reiterates that other Class C channels are available for assignment to Tremonton which will not cause a disruption in its existing FM translator service.

4. Tremonton (population 2,794)[2], in Box Elder County (population 28,129), is located approximately 104 kilometers (65 miles) north of Salt Lake City, Utah. There is currently no local aural service in Tremonton, although an application for a daytime-only AM station on 1470 kHz is pending.

5. As we stated in the *Notice*, high-powered, wide-coverage area Class C channels are normally not assigned to communities as small as Tremonton. Exceptions to this policy are made, however, where a Class C channel could provide a significant amount of first or second FM service to surrounding areas and population. *See, e.g., Cobleskill, New York*, 48 R.R. 2d 1406 (Broadcast Bureau 1981). At the time the *Notice* in the present case was released, the assignment of a Class C channel to Tremonton would have provided first and second service to approximately 3,000 and 600 persons, respectively. In the interim, however, an application to upgrade the facilities of Station KJKJ, Logan, Utah, has been received by the Commission.[3] If granted, the modification to Station KJKJ would completely eliminate the area of first service which Chanel 264 at Tremonton would have served. Similarly, a pending application for a new Class C station at Roy, Utah,[4] may, if granted, significantly decrease the amount of second service which the channel at Tremonton would have provided. Therefore, absent further information, if the above-mentioned applications are granted, no reason would exist to consider assigning a Class C channel to Tremonton. Our assumptions on the extent of first and second service provided, however, could change depending on the proposed location of petitioner's transmitter site in Tremonton. Our analysis indicates that the unserved and underserved areas near Tremonton lie generally to the northwest of the city. If petitioner's proposed transmitter site is located in that direction, the possibility of providing first and second service may be present notwithstanding the possible Logan facility change and the Roy application. On the other hand, if petitioner's proposed transmitter site is closer to Logan, the prospects of providing first and second service is considerably less.[5] Precise information on the land which petitioner alleges to have purchased for its transmitter site will also be enlightening with regard to petitioner's assertion that spacing requirements preclude its use of any channel other than Channel 264.

6. In addition to seeking further information about petitioner's proposed site for its Class C operations, we are also requesting comment on Simmons' counterproposal to assign a Class A channel to Tremonton. If the amounts of first and second service to be provided by a Class C station in Tremonton are not sufficiently large to justify assigning a Class C channel, assigning a Class A channel would be more appropriate. Any parties interested in applying for a Class A channel at Tremonton should make their intentions known in response to this *Further Notice*.

7. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Tremonton, Utah		264 or 265A

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

11. Comments must be filed on or before September 15, 1981, and reply comments on or before October 5, 1981.

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, Section § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

[2] Population figures are taken from the 1970 U.S. Census.

[3] File No. BPH-801020AD.

[4] File No. BPH-810420AD.

[5] Due to Tremonton's proximity to the larger city of Logan, the assignment of a Class C channel to Tremonton could raise an issue of which community petitioner actually intends to serve. If petitioner seeks to serve the Logan community, it should so indicate in its comments and counterpropose an assignment to Logan.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-21638 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[Docket No. 79-191, 79-334, RM-3691]

Allocation of the Remaining Frequencies in Certain Private Land Mobile Frequency Bands

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This document proposes rules for the release, allocation, assignment, and criteria for use of the remaining 250 channels in the 800 MHz private land mobile reserve band. It also modifies the action taken in the Report and Order of Docket 79-191, and incorporates Docket 79-334 and RM-3691 into this proceeding. This action is necessary to alleviate the shortage of 800 MHz frequencies in the major urban areas as well as to increase the efficiency of utilization of these frequencies.

DATES: Comments are due on or before September 14, 1981 and replies on or before October 14, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, or Lewis Goldman, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

In the Matter of amendment of Part 90 of the Commission's Rules to Designate Frequencies in the 806-821 and 851-866 MHz bands for Slow-Growth Land Mobile Radio Systems of Utilities and Public Safety Agencies; PR Docket No. 79-191, RM-3380. Amendment of Part 90 of the Commission's Rules to Allocate Frequencies in the 806-821 and 851-866 MHz bands for Public Safety/Special Emergency, Industrial/Land Transportation, Business Radio Service and SMRS/CR Frequency Pools. Amendment of Part 90 of the Commission's Rules to Facilitate Authorization of Wide-Area Mobile Radio Communications Systems on Frequencies Allocated for Trunked Systems; PR Docket No. 79-334. Amendment of Part 90 of the Commission's Rules to Allocate Additional Frequencies from the 800 MHz Spectrum Reserve to Loaded Specialized Mobile Radio-Trunked Systems in Markets Having All Presently-Allocated SMR-Trunked Frequencies Assigned; RM-3691.

Adopted: June 16, 1981.

Released: July 14, 1981.

1. In the rulemaking proceeding in Docket No. 18262 the Commission addressed the allocation of frequency spectrum in the 806-947 MHz band (900 MHz band) to the land mobile radio service, and to the development of regulations pertaining to the future use of that spectrum. The first phase of the proceeding was initiated on July 17, 1968, with a Notice of Proposed Rule Making and Notice of Inquiry (33 FR 8644). It accomplished a general reallocation of spectrum in the 806-947 MHz band from broadcast to land mobile use, with the effect of providing an additional 115 MHz of spectrum to the land mobile radio service. It also provided a tentative sub-allocation of this spectrum within the land mobile service, with 75 MHz being allocated for the development of high capacity common carrier mobile communications systems, (i.e. "cellular systems") and 40 MHz for the development of efficient private and shared systems. The second phase of this proceeding was initiated with a Second Notice of Inquiry, released coincident with the First Report and Order. It dealt in greater detail with the questions of spectrum allocations within the land mobile service and with the development of systems' standards and other regulations applicable to the new 900 MHz land mobile band. This second phase was completed in 1974 with the adoption of a Second Report and Order (FCC 74-470) which addressed the frequency allocation and related matters, together with the policies and regulations pertaining to various systems being accommodated at 900 MHz. *Second Report and Order*, Docket No. 18262, 46 FCC 2d 752 (1974). *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945 (1975). *Memorandum Opinion and Order*, Docket No. 18262, 55 FCC 2d 771 (1975).

2. In 1976, the Commission began assigning frequencies in the 806-821 MHZ and 851-866 MHz bands which had been allocated to the private land mobile radio services. The Commission initially released 300 of the 600 channel pairs available for these services, designating 200 of these channels for trunked systems [1] and 100 channels for conventional systems.[2] Since trunked systems were new to land mobile operations, however, there was some uncertainty both as to their actual performance and their degree of user acceptance. Even though trunked systems were theoretically more spectrally efficient than conventional systems, the Commission decided that it should reserve 300 frequency pairs until a number of trunked systems had been constructed and operated. It would then decide how to release the remaining 300 channels based on its operating and regulatory experience.

3. Early in 1978, the original 100 channels designated for use by conventional systems were all assigned in major metropolitan areas and requests to release additional spectrum were received. In response, the Commission issued an Order in August of 1978 (FCC 78-584),[3] releasing an additional 50 channels for conventional systems. Since trunked systems were not actively marketed until 1978, no additional channels were made available for trunked systems. In October of 1979, to alleviate a continuing shortage of spectrum for conventional systems in Chicago, New York and Los Angeles, without depeleting the remaining reserve, the

[1] A trunked system is one in which 5 or more channels are interconnected with a computer so that when a user wishes to communicate, the system will automatically search all the channels until a vacant one is located.

[2] A conventional system is one in which one or more channels are operated independently. Unlike a trunked system, with the multi-channel conventional system, the user must manually search for a vacant channel.

[3] Order releasing fifty channels from the reserve pool for use by conventional land mobile systems in the 800 MHz band, FCC 78-584, adopted August 1, 1978, 43 FR 35394, August 9, 1978.

Commission in PR Docket 79-106[4] increased the mobile loading limits for conventional channels in the top 25 urbanized areas of the country. By late 1979, it had also become apparent that the popularity of trunked systems technology had resulted in spectrum shortages for trunked systems in the Nation's major urban centers. Waiting lists of applicants seeking spectrum for each type of system have resulted in anticipation of additional spectrum allocation.

4. During this same period of time the Commission received petitions from representatives of various radio services. Some wished all of the remaining reserve private land mobile spectrum to be released immediately with first priority to fully loaded trunked systems on the waiting lists. Others wished it divided between conventional and trunked system. Others did not wish a general release of spectrum at all, but instead wished it released to generic classes of users. This latter group contended that particular types of radio services eligibles were disadvantaged by a general release of spectrum, be it to conventional or trunked systems or both, because these "slow growth" types of users could not compete for channels with the same alacrity in application submissions as Business Radio Service and Specialized Mobile Radio (SMR) licensees.[5]

Docket 79-191

5. In response to these kinds of arguments, on August 1, 1979, the Commission adopted a Notice of Proposed Rule Making to set aside 50 of the 250 remaining reserve channels for public safety and public utility slow-growth systems.[6] The Commission recognized by this action that of the 350 channels already allocated, most were assigned to Business Radio Service licensees or SMRs, and it concluded there was merit to assuring that licensees who wished to construct their own systems rather than share that of another were allowed this option. It therefore proposed to set aside 50 channels of the remaining spectrum for eligibles in other radio services, to accommodate important radio needs. It proposed to limit the eligibility to use these channels to genuine "slow growth" systems and sought comment as to the proper definition of such systems.

6. Comments and replies on the Commission's proposal were received from 13 parties.[7] While there was general support for the allocation of some portion of the remaining 250 channels in the private land mobile reserve for public safety and public utility systems (a group the Commission specifically proposed to include) most who commented though (1) that public safety and other users should not be grouped on the same channels, and (2) that more than 50 channels should be allocated. They felt "slow growth" requirements existed in many other services and they requested additional reserve channels be allocated, and that the ability to access these channels, and not to have to compete directly with Business Radio Service eligibles and SMRs, be extended to eligible entities in other radio services.

7. On November 6, 1980, the Commission adopted a Report and Order,[8] which allocated 50 of the 250 reserve channels only to local governments for slow growth systems. The Commission concluded these were the only systems in which true external constraints on immediate system implementation existed and beyond this it was not possible to distinguish one category of user from another.

8. We now have before us three Petitions requesting reconsideration of the Report and Order which the Commission adopted in this proceeding,[9] as well as an Opposition to the Reconsideration Petitions, and four replies to the Opposition.[10] These petitions argue the Commission has been arbitrary and capricious in artifically distinguishing between local governmental requirements and those of non-governmental concerns. They argue the equitable approach is to release channels to all services that require them while incorporating into this release the recognition of the fact that many systems in many services have longer lead time requirements than Business and SMR licensees. They contend a "common pot" release approach does not serve the public interest because if there are not frequencies available for single as well as shared system approaches, the Commission constrains the ability of eligibles to satisfy their requirements as they deem appropriate in the furtherance of the public good. All petitioners for reconsideration make reference in requesting relief to a proposal submitted to the Commission by the Land Mobile Communications Council (LMCC) concerning the disposition of reserve channels. Additionally, the Commission has before it other proposals addressing how this reserve should be approached including one from Advanced Mobile Radio Telephone Services, Inc. (RM-3691), one from the National Mobile Radio Association, Inc. (NMRA) and one from the General Electric Company (GE).[11]

9. In the petitions for reconsideration of our decision in Docket 79-191, the petitioners do not take issue with our action allocating 50 channels to a public safety frequency pool available to local governmental eligibles on a shared basis. They do, however, dispute our decision not to make additional reserve channels available to other radio services eligibles. Petitioners state that the objective of the proceeding in Docket 79-191, as described in the Commission's Notice of Proposed Rule Making, was not solely to accommodate local governmental "slow growth"

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[4] Amendment of §§ 90.365 and 90.377 of the Commission's rules to change the co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the bands 806-821 MHz & 851-866 MHz. *Memorandum Opinion and Order*; PR 79-106, adopted September 25, 1979, 45 FR 59634, October 25, 1979.

[5] For a discussion of SMR licensees see Docket No. 18262, *supra*.

[6] *Notice of Proposed Rule Making, PR Docket No. 79-191*, FCC 79-478, 44 FR 5087.

[7] The following parties filed comments and replies to our Notice of Proposed Rule Making: the Utilities Telecommunications Council; the Associated Public Safety Communications Officers, Inc.; the International Association of Chiefs of Police; the General Telephone Companies; the Association of Maximum Service Telecasters, Inc.; the Central Committee on Communications of the American Petroleum Institute; the Special Industrial Radio Association, Inc.; the International Municipal Signal Association; Mr. Jorge E. Calderon Sanchez, Communications Officer, Puerto Rico Police Department; the American Telephone and Telegraph Company; the Southern California Rapid Transit District, County of Los Angeles; and the Virgin Islands Department of Public Safety.

[8] *Report and Order, PR Docket 79-191*, FCC 80-663, 45 FR 81204 (Dec. 10, 1980).

[9] Docket 79-191, Petition for Reconsideration submitted by the Utilities Telecommunications Council (UTC); Petition for Reconsideration submitted by the Central Committee of Telecommunications of the American Petroleum Institute (API); and Petition for Reconsideration submitted by the Special Industrial Radio Service Association, Inc., (SIRSA).

[10] Opposition to Petitions for Reconsideration submitted by the Associated Public Safety Communications Officers, Inc., (APCO). Reply to Opposition submitted by Utilities Telecommunications Council; Reply to Opposition submitted by Maximum Service Telecasters, Inc.; Reply to Opposition submitted by API; and Reply to Opposition submitted by SIRSA.

[11] Incorporated by reference in the matters now before us are also the proposal from the Land Mobile Communications Council (LMCC) captioned "Policies Governing the Assignment and Use of the Remaining Channels in the 806-821 and 851-866 MHz Bands Currently Held in Reserve" a proposal from the National Mobile Radio Association (NMRA) captioned "Proposal for Release of 800 MHz Reserve-Pool Channels," and a proposal from the General Electric Company titled "Petition for Inquiry, Allocation of Frequencies in the 800 MHz Reserve Pool for Private Radio Systems." Executive summaries of these proposals are contained in Appendices A, C, and D respectively. We invite public comment on these proposals in addition to the proposals we are making herein.

systems, but was also to ensure, in view of the rapidity with which frequencies are assigned once allocated at 800 MHz, the channels will be available to accommodate radio systems which are in the public interest and which, for a variety of reasons, have not in the past been as successful as Business Radio Service and SMRs eligibles in securing necessary 800 MHz frequencies. They also note that the need for additional channels for all services is readily apparent and that the public interest is not served by continuing to hold frequencies back from private land mobile users.

10. All urge as relief the allocation of additional frequencies. The petitioners for reconsideration support the Land Mobile Communications Council proposal as to how, and under what conditions, this allocation should be made. APCO, in its Opposition, expresses its fears, however, that if additional frequencies are allocated in this proceeding, it will unreasonably delay the ability of local government systems to access the 50 channels already allocated for their use to construct slow growth systems.[12] Other proposals before us demonstrate that there is significant opposition to the LMCC proposal by other land mobile interests. They do not agree that a sequestering allocation approach is desirable, and they argue the first come-first served assignment process originally adopted in Docket No. 18262 should be adhered to.

11. After a careful review of all the comments and proposals which have been made, we conclude that it is appropriate to consider modifying somewhat both the decisions we reached in our Reprt and Order in Docket No. 18262 and that reached in Docket No. 79–191. To outline our reasoning before we address both the modification and our proposals, first we agree that the last of the remaining spectrum in the private land mobile reserve should be allocated now. While it might be argued that the only need for additional spectrum exists in the Nation's major urban centers and that it is only in these locations that it should be released, we believe it is administratively desirable generally to release the spectrum, rather than confine the allocation to specific metropolitan areas.

12. Second, we also think there is merit to some frequency sequestering. Each private radio service had its genesis in the recognition through a notice and comment rule making proceeding that the public interest was served by having spectrum available to satisfy particularized service requirements, (e.g. Police Rado Service; Local Government Radio Service; Power Radio Service; Railroad Radio Service, *etc.*). We have consistently concluded that licensees should have the option of electing the form that satisfying this requirement should take. See e.g. generally *Multiple Licensing-Safety and Special Radio Services*, Docket No. 18921, 24 FCC 2d 510 (1970); *Special Emergency Radio Service, Report and Order*, Docket No. 17581, 24 FCC 2d 310 (1970); *Cooperative Sharing of Operational Fixed Stations, Report and Order*, Docket No. 16218, 4 FCC 2d 406 (1966); *Coleman Petroleum Engineering Co. et al.* 24 FCC 2d 378 (1970); *Land Mobile Radio Service*, Docket No. 18262, 46 FCC 2d 752 (1974); *Memorandum Opinion and Order*, Docket No. 18262, 55 FCC 2d 771 (1975). The record before us establishes that there are eligibles who have not been able to satisfy communications requirements in the manner they deemed most appropriate, be they local governmental entities or otherwise, because, for whatever reasons, they were not as quick as eligibles in other radio services in securing spectrum. To the extent that this has resulted in broad classes of eligibles being denied spectrum to satisfy legitimate communications requirements in the public interest, we do not think it is desirable. Further we note that while much of the spectrum has been assigned to SMR systems, these systems generally are not heavily loaded.

Therefore, while the spectrum is gone, it is not necessarily being used. Just as we have always concluded that the public interest has been furthered by providing eligibles with a choice whether to satisfy their communications requirements either through private or common carrier facilities, so we think it is served by offering them a choice between shared and unshared private facilities. We have, therefore, decided to allocate the remaining spectrum in categories. This would not be a return to the "balkanized" "block approach" which we declined to follow initially in Docket No. 18262 as some have argued, because the categories are so large as to preclude the "hoarding" which can result when allocations are made radio service by radio service. The very size of the classes should assure spectrum in demand will not lie fallow.

13. Third, we believe that the vertically loading and sequential assignment approach initially adopted in Docket No. 18262 has had some negative repercussions. As we noted in our proceeding in Docket No. 79–334, the Docket No. 18262 approach envisioned essentially circular areas of operation with a twenty mile radius. As such, the assignment plan now being followed does not lend itself readily to wide area, regional or ribbon configuration requirements which often occur in the user environment. This somewhat rigid assignment approach also has not permitted modifications in appropriate circumstances where topography or operational characteristics may warrant a somewhat modified approach. The Commission cannot undertake the analysis that individualized evaluations would require in the absence of an available automated data base and an increase in staff resources. The LMCC in its proposal has offered to make the necessary data base available. Various user associations have also volunteered to bring to bear on the 800 MHz frequency assignment process the expertise they have acquired over the years in making frequency recommendations for Commission consideration below 800 MHz. We are, therefore, proposing to allow eligibles to request frequencies of us after preparing their own field surveys or securing a recommendation from a frequency advisory group.

14. Lastly, we are proposing to modify a variety of rules for systems which would operate on these 250 frequency pairs from the rules we adopted in Docket No. 18262 and earlier in Docket No. 79–191. Our reasoning will be discussed below. With this summary now outlined, we will proceed to the specific proposals under consideration.

LMCC Proposal

15. Appendix A to this Further Notice of Proposed Rule Making is the Executive Summary of the LMCC Proposal for release of the remaining channels in the 806–821 and 851–866 MHz bands. The full text of this proposal is included in the Docket File in this proceeding. In brief the LMCC Plan would:

(a) Group channels into the following four separate, but flexible, categories with the following frequency allocations:

[12] In its Reply, UTC clarified its position by requesting that we adopt a Memorandum Opinion and Order releasing an additional 60 channels to accommodate slow growth systems in the Power and other Industrial Radio Services, and that we issue a separate Docketed Notice of Proposed Rule Making to determine the rules which should govern operations on these channels. However, since we believe the allocation of frequencies and the rules which would govern the operations of systems on them are intrinsically tied and should be treated together, we have declined to adopt the approach requested by UTC in its Reply Comments. See discussion, *infra*.

—Commercial Users (SMRS and Common Carriers) 70 channels.

—Business Users (includes "community repeaters"[13] but not SMRs) 60 channels.

—Public Safety Users—60 channels (includes 50 channels released in our Report and Order earlier in this proceeding).

—All other Industrial and Land Transportation Users 60 channels.

(b) Permit trunked or conventional use at the user's option.

(c) Apply the "field study" and "frequency advisory committee" provisions of § 90.175(a) (47 CFR 90.175(a)) of the rules to the initial selection of frequencies so that applicants have the option to avail themselves in selecting their frequencies or the services of frequency coordinating committees which are representative of the various categories of users.

(d) Recognize that the LMCC will establish a nationwide data base for use in the initial frequency selection process which is available to all users.

(e) Have the Commission establish rules for appropriate loading, engineering, operating and interference criteria for each category.

(f) Have the Commission establish for the Commercial User category:

i. Rules for common interference criteria (not fixed mileages);

ii. Rules which would permit applicants to apply for up to 20 channels, and where there are more applicants than channels, divide the available channels among all applicants who may pool them; and

iii. Rules which would permit the use of these channels by common carriers and which would permit equipment manufacturers to be licensed for any number of systems.

(g) Have the Commission establish for the three non-commercial user categories:

i. Rules which permit only non-exclusive frequency assignments;

ii. Rules which provide for frequency registration and extended construction periods for slow growth users; and

iii. Rules which permit "engineered-in" assignments through the use of the criteria established through rule making and the information in the data base.

(h) Permit the Commission after 5 years to change channel boundaries for each category. In the meantime, provide for intercategory sharing by mutual agreement of coordinating committees.

16. In support of its request, the LMCC[14] notes that its proposal calls for the use of limited and flexible blocks, frequency coordination and frequency sharing. It contends that these are useful and necessary approaches and will represent an improvement over the frequency and use policies adopted in Docket No. 18262. Specifically, the LMCC argues that six years have now elapsed since the Report and Order in Docket No. 18262 was adopted, and that it is appropriate to revisit the decisions made therein. In this regard, the LMCC points out that the Commission itself acknowledged that as it gained experience it would have to re-examine and, if necessary, modify its initial regulatory approach to 800 MHz. *Land Mobile Radio Service, Second Report and Order, Docket No. 18262,* 46 FCC 2d 752 (1974), *Memorandum Opinion and Order Docket No. 18262,* 51 FCC 2d 945, 978 (1975). To quote from the LMCC proposal:

> It has now been six years since the Second Report and Order in Docket No. 18262 was adopted and four years since radio systems have been licensed at 800 MHz. Any examination of the original wisdom of the move away from block allocations at 800 MHz must be in light of the experience gained during that time and more importantly in light of the needs of the land mobile community. First, it is clear that the rate of success and willingness of users to utilize 800 MHz, particularly in urban areas, has far surpassed the Commission's original expectations. In this regard, at the present, all allocated frequencies for trunked channels have been assigned in Chicago, Los Angeles, New York, San Francisco, Washington, Houston, and Dallas/Ft. Worth. Conventional channels are exhausted in the first three of these cities. In each of these cities, there is a pending backlog of applications for additional frequencies as well as a substantial number of potential users who have in all likelihood not even filed due to the present unavailability of channels. It can, therefore, be said that the reception of 800 MHz channels in urban areas is a success, with the need for available frequencies in such areas at a critical stage, given the fact that there exists in a large number of urban areas simultaneously more applicants than there are available frequencies. Second, the variety of systems which were only in a developmental stage at the time of the adoption of the Second Report and Order have now had sufficient opportunity for development so there can be little justification on that score not to release the necessary additional channels. Third, the original loading standards and co-channel mileage separation standards for conventional systems have already been modified, allowing somewhat further utilization and demand of the frequencies by users, but requiring greater care in selecting a frequency. However, even these modified standards are not sufficient to allow the maximum and efficient utilization of the frequencies. Fourth, given the already existing backlog of applicants and growing demand for channels at 800 MHz, there is a need to make certain that all land mobile groups have equal access to the channels. In addition, with the present demand on channels and the revised loading standards, the Commission's assignment of frequency and coordination ability at 800 MHz is not satisfactory. Not only is the Commission presently without adequate resources to make the assignment decisions necessary, but its continued adherence to strict policies of rigid co-channel mileage separation and loading standards and sequential assignment of frequencies have resulted in under-utilization of the spectrum. That is, continued adherence to the Commission's present rigid policies will not allow the type of reasoned decision making necessary to allow for specific engineering-in of additional systems which will allow greater spectrum efficiency. In short, the Commission's existing policies of spectrum assignment do not operate in the public interest.
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> LMCC Proposal pp. 14–16 (footnote omitted).

17. In essence, the petitioners for reconsideration asked as relief the adoption of the LMCC approach. They argue that if the four category groupings proposed were adopted, along with a release of channels to each group and a relaxation of the rules as described, it would accomplish the Commission's objectives of assuring that allocations and assignments in the 800 MHz private land mobile reserve would accommodate the needs and requirements of SMRs and Business users, while at the same time assuring that the important communications requirements of other classes of eligibles including, but not limited to "slow-growth" systems (governmental or otherwise), would also be satisfied. They also contend that the introduction of flexible pool allocations and frequency coordination rather than geographic separation and sequential frequency loading would achieve more efficient spectrum management.

NMRA Proposal

18. The Commission has also received a proposal on this subject from the National Mobile Radio Association. This proposal has also been placed in the Docket file and its summary is included herein as Appendix C. The NMRA proposal differs from the LMCC proposal in many significant aspects. In brief, under the NMRA plan, the Commission would release the remaining 200 channels (excluding the 50 "slow-growth" channels) into a single

[13] For a description of the Commission's multiple licensing practices See generally, *Multiple Licensing Safety and Special Radio Services, Memorandum Opinion and Order and Notice of Proposed Rule Making, Docket No. 18921,* 24 FCC 2d 510 (1970).

[14] The membership of the LMCC is set forth in Appendix B. It is made up of land mobile radio user groups, providers of common carrier land mobile service, and equipment manufacturers.

private user pool. These frequencies would be available on a "first-come, first-served" basis to all private services eligibles and would be allocated for trunked use only. In cities where applications are pending for more than 200 channels, only 180 channels would be released on a first come, first served basis. The remaining 20 channels would be distributed in 5 channels blocks by means of either a lottery or a "paper" hearing to minimize comparative hearing. In support of its proposal NMRA contends:

NMRA submits that the record confirms the Commission's wisdom in selecting chronological priority; for in the space of two short years 27 trunked SMR systems were licensed and placed in service in Los Angeles even though trunked mobile equipment presently carries a premium price. Trunked SMR systems have enjoyed similar success in other urban markets, including Chicago and New York. The user demand for trunked systems will drastically increase in early 1981 as lower cost units become available. Given the proven ability of entrepreneurs to place 800 MHz resources to productive use under the current assignment scheme, there is no reason to search for new methods of accomplishing the task.[15]

This proposal discounts the need for election between different kinds of private systems and argues all private needs can be satisfied through shared SMR systems.

19. NMRA further contends that another reason for continuing the "first come, first served" licensing approach is "fairness" to applicants presently waiting for additional spectrum to be released. NMRA also makes two additional points in its proposal. First, in view of the special problem present in San Diego, California, because lack of an agreement with the Mexican government has blocked use of 800 MHz frequencies in areas near the border, it proposes that:

* * * a full complement of 600 conventional and trunked 800 MHz frequencies offset 12.5 kHz from Los Angeles frequencies be made available in San Diego. Use of offset frequencies has a long and successful history of permitting intensive frequency reuse in both the land mobile and broadcast services. The geographical separation between the Los Angeles and San Diego markets permits the Commission and the public in this special case to have their cake and eat it, too.[16]

16. Second, NMRA takes exception with the LMCC's proposal to remove the present restrictions which limit persons engaged in the manufacture of radio equipment from controlling, directly or indirectly, more than one trunked SMR system nationwide. The gist of NMRA's position is:

Removal of this restriction would permit Motorola and other manufacturers to not only manufacture, sell, install, and maintain the mobile equipment but also to provide the trunked SMR service on a vertical integrated basis. Independent SMRs who have made large capital investments in their trunked systems would then be placed in the position of competing with manufacturers who can easily subsidize their trunked facilities at the expense of their small business competitors.[17]

20. In sum, the NMRA proposal takes serious exception with many of the LMCC proposals. To quote from NMRA:

NMRA has renewed (sic) the Land Mobile Communications Council's (LMCC) proposal contained in its letter of October 28, 1980, addressed to the Chief, Private Radio Bureau, for disposition of the remaining 200 reserve pool channels and believes that the LMCC proposal is not in the public interest. The LMCC proposal would divide the remaining 800 MHz spectrum into four blocks. Each different class of applicant would be assigned spectrum from one of the blocks. For example, one block would be available only for public safety applicants. Except for the "commercial user" category, which would encompass SMR and Radio Common Carrier (RCC) operations, no restrictions on co-channel reuse and maximum number of mobile units that may be operated on a channel would apply. Local "spectrum management groups" would be in charge of frequency assignments with the FCC acting as an arbiter should local agreements prove impossible. The LMCC proposal represents a step backward into service-by-service "balkanized" frequency allocation. Under the current rules, and NMRA's plan, all categories of users have access to all channels. The marketplace has decided that in Los Angeles, for example, most of the currently authorized 800 MHz channels should go to users in the general business category. LMCC would demand by the substitute its arbitrary division of frequencies for the actual demand by the consumers of radio communications services. The marketplace has also shown that trunked systems are installed and operated virtually without exception, by independent entrepreneurs, as trunked SMR systems, open to users in every eligibility category. The small users over which LMCC is concerned are not being denied radio service under NMRA's proposal. Public safety, industrial and land transportation users can obtain radio service from SMR stations authorized to service mixed eligibility groups. Trunked systems not only offer major theoretical increases in spectrum efficiency, but experience with existing SMR trunked operations shows a real world increase in efficiency. Only a handful of non-SMR systems are trunked. By gerrymandering the 200 channels and foreclosing SMR operations on most of the frequencies, the LMCC would insure that spectrum inefficient non-trunked systems will predominate.[18]

[15] NMRA Proposal December 8, 1980, pg. 3.
[16] *Ibid.* at page 7.
[17] *Ibid.* at page 8 (footnote omitted).
[18] *Ibid* at pp. 13, 14 (footnote omitted).

General Electric Co. Proposal

21. The GE proposal is captioned a Petition for Inquiry. It has been placed in Docket files and its Executive Summary is included herein as Appendix D. GE argues that in Docket No. 18262, the Commission sought to avoid the "inefficiencies" of lower band licensing and to establish "new schemes" for licensing the use of radio spectrum. To quote GE:

The most important of these efforts was the allocation of 200 channels for "trunked" communications sytems—utilizing switched multi-channel techniques. Through an automated assignment of channels to users as needed for communications, trunked systems offer a vast improvement in efficiency over conventional radio systems utilized in lower frequency bands. In order to take advantage of this new technology, the Commission required trunking for all systems of five channels or more, and authorized a new type of profit-making system operator, the Specialized Mobile Radio system or SMRs to encourage the substantial investments necessary to bring trunked service to the public. The remainder of the rules for licensing radio systems at 800 MHz reflected the decision to encourage trunking as the most efficient use of new spectrum. Trunked systems, for example, were given the largest block of 800 MHz spectrum; by contrast, 100 channels were allocated for "conventional" or nonswitched, shared systems for users who preferred this alternative. Moreover, manufacturers of mobile radio equipment were limited to ownership of one trunked system, on the theory that numerous small entrepreneurs would better exploit the new frequencies in a competitive marketplace if they were left free of domination by powerful, vertically integrated companies.

GE Petition for Inquiry, pp. 2-3 (footnote omitted).

22. GE continues that trunked systems have "demonstrated their greater efficiency" and have "confirmed the wisdom of requiring trunking for most 800 MHz systems." GE's plan therefore includes "three basic requirements:

First, any allocation made at this time for trunked and conventional systems should be in the same proportion as the original Docket 18262 allocations * * *

Second, the existing restriction on manufacturer ownership of 800 MHz systems should be equally applied, to any new frequency release * * *

Third, no new allocations should be utilized for community repeater operations, as these operations can be used among other things, to circumvent the ban on manufacturer-owned systems * * *

Id at pp. 5-6.

23. Additionally GE would limit initial grants to SMR systems to five channels. Seventy percent loading of these channels would be required within three years. Ninety percent loading would be required before additional channels

were authorized to such a licensee. All pending applications (i.e. those on the waiting lists) would be reduced to five channels in order to grant the channels under the "first come/first served" process.

Advanced Mobile Radiotelephone Services, Inc. Petition (RM-3691)

24. The final proposal before us is a Petition for Rule Making, and related comments, submitted by Advanced Mobile Radiotelephone Services Inc. It requests the Commission to allocate sufficient additional frequencies from the 800 MHz reserve spectrum to permit presently authorized SMR trunked systems of less than twenty channels, in markets having all presently-allocated trunked frequencies assigned, to increase their systems to twenty channels provided they can demonstrate seventy percent of authorized mobile loading. Thus, Advanced Mobile says:

> When the Commission began authorizing SMR Trunked systems, it accepted applications for systems of up to 20 channels. At that time, though, no mobile units were available that could operate with more than five trunked channels. Rather than authorizing the earliest SMR Trunked licensees for the channels for which they had applied in excess of five channels, the Commission authorized only five channels and placed licensees' applications for additional channels on a waiting list behind not-yet-reached applications for 20 channels. When mobiles became available that would operate with more than 5 trunked channels, the Commission began making 20 channel grants as applications were reached for processing, rather than giving priority to licensees' applications for additional channels. Allocated channels were exhausted before some original licensees' applications for additional channels had been reached. In the largest markets, therefore, no more SMR-Trunked frequencies are available to anyone. In those markets, some early SMR operators are heavily loaded and cannot expand beyond the five channels initially authorized, while some later-entering SMR operators are authorized to use 20 channels, merely because their applications were reached for processing neither too early (so they were not restricted to five channels) nor too late (so they were not frozen out). Thus, SMR operators with courage and the foresight to file earliest have been penalized by the Commission for their earnest attempt to carry out the Commission's policy of placing 800 MHz frequencies in use as quickly as possible.
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> Petition for Rule Making, pp. 1-2.

Advanced, therefore, requests that additional frequencies be made available to seventy percent loaded trunked systems now on the waiting list.

25. Comments on Advanced's petition were submitted by Matheny Communications which argued that additional spectrum "should not be handed over on a preferential basis to existing five channel licensees when there are applicants like Matheny, in the waiting list line for trunked licenses." Such action, Matheny says, would be "unfair and discriminatory" with regard to those in the waiting line. In reply Advanced says:

> In fact, all that Advanced is suggesting is that a subclass of those in the waiting line be recognized and that all persons in that class be treated similarly. Those not in the same class as Advanced should not be discriminated against and would not if the Commission were to allocate sufficient frequencies for their SMR-Trunked purposes as well.
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> Reply to Comments by Matheny Communications, pp. 1-2.

Discussion

26. Before turning to the specifics of our proposal, we think it would be useful to revisit our Docket 18262 decision concerning trunked and conventional systems, service categories, and licensee options since a variety of different views on these matters have been outlined. There we stated:

> The second class of system under consideration is the multi-channel trunked system. This system is similar in concept to so-called community repeaters widely employed in the private dispatch service today except that the users would have access to a number of channels instead of just one. Actual channel access is controlled by a central computer, which gives a user the first available channel or places the user in a waiting line (queue) to be served in turn * * * The innovation lies in its intended application to vehicular fleet dispatching and the potential for using many more channels per system than is now possible * * * (T)runked dispatch systems would be suitable either for large single users, cooperative groups of users on a cost shared basis, or commercial operators providing service for hire. The nature of trunked systems make them particularly suitable for serving different types of users on the same group of channels without interference. With today's single-channel systems it is generally desirable to put similar types of users on the same channels in order to control interference. That approach, however, requires separate allocations of channels for the various classes of users which often leads to spectrum inefficiencies. In the trunked system, different types of users can be intermixed more readily as they operate essentially independently of each other, the computer assigning channels on demand * * *
>
> 46 FCC 2d at 754.

We also clearly recognized that there were other considerations in addition to spectrum efficiency which must be considered.

> While these (conventional) systems may also employ one or more channels, their distinguishing feature is manually controlled channel access as opposed to the computer control used in trunked systems. This makes the conventional system simpler and cheaper but causes some loss of traffic efficiency resulting in either fewer mobiles per channel or lower service quality. The degree of such inefficiency depends largely upon the traffic characteristics of the users. Our analysis would indicate that for a significant segment of the land mobile requirement, particularly where short range, short message communications are involved, the conventional system can be as or more efficient than the trunked system. Therefore, considering its lower cost and greater operational simplicity, the conventional system, we feel, has a definite place in the 900 MHz band alongside the more sophisticated systems described above.
>
> *Id.* at 754-55.

27. With regard to the allocation of spectrum among various types of systems, we noted that in the past the Commission had taken land mobile spectrum requirements from a radio service by radio service perspective and that this method of allocation had "led to parochialism" among the users and inequitable situations where spectrum shortage and abundance existed side by side in the same cities.

> In this docket, we are proceeding to meet land mobile spectrum requirements in a somewhat different manner. Rather than allocating according to user categories or services, we have chosen to allocate by system type and to allow the market to determine ultimately how much spectrum is utilized by the various types of users.
>
> *Id.* at 755.

28. We then continued:

> Throughout this docket the Commission, industry and the public have been dealing with innumerable unknowns, ranging from radio propagation phenomena and new system technologies to innovative service offerings and future market projections for these services. While we now believe that we have a better grasp of these factors through our analysis of the information submitted to the Commission and discussions with industry and user groups. There are still a number of technical questions which only further developmental work can answer and the ultimate demand for the proposed systems can only be determined in the market itself. For these reasons it is important that any allocation plan be flexible enough to cope with new and often unforeseen technological and economic forces * * *
>
> *Id.* at 755.

29. Lastly on this point, we stated that reliance ultimately should rest with marketplace forces and that neither shared or unshared systems were to be preferred since our underlying regulatory objective was to assure that each licensee could seek the type of system he or she found most

advantageous to him or herself (46 FCC 2d p. 765).

30. Therefore, to the extent that some parties argue private users, in effect, should be compelled to use SMR systems through a restrictive allocation of frequencies to conventional systems, we disagree. We recognized from the Beginning that ultimately user preferences expressed in the marketplace would control how frequencies should be allocated. The fact of the matter is that although all available trunked frequencies have been assigned, few trunked systems are fully loaded. It is also clear that many private land mobile service licensees would prefer to wait for a conventional system than commence immediate operation on an SMR system. These factors cannot be ignored nor can be rely solely on the position expressed, but not supported, by some that this will change in the immediate future. These types of user preferences are clearly the very type of marketplace elections we said we would consider in allocating spectrum at 800 MHz.

31. We also find merit to the arguments that some sequestering of frequencies by categories of eligibles would serve the public interest, and this not inconsistent with our Docket No. 18262 plan. There we defined our problem as:

> * * * (D)efining the systems to be accommodated, determining how much spectrum will be needed to satisfy the demand for such systems over a reasonable period of time, and arranging the separate allocations in an orderly plan, taking into account the technical characteristics of the systems and their electrical compatibility of each other and with systems in neighboring bands.
>
> 46 FCC 2d 755.

The plan we are proposing will do just this. It will consider categories of users and allocate spectrum to each category after deciding how much spectrum is appropriate for each category. It will also consider these allocations in the context of the time reasonable for eligibles in the categories to apply for and construct systems. The allocations would not be permanent and should not lead to long term parochialism or inequity.

Proposal

32. We have considered these petitions for reconsideration. We conclude there is merit to API, SIRSA and UTC's points. The public interest is served by assuring that 800 MHz frequencies are available for all eligible users who have communications requirements, slow growth or otherwise, and that these entities should have a choice whether to satisfy this communications requirement through constructing their own systems, sharing facilities, or taking service from SMRs. We also conclude that it is appropriate, for the reasons discussed, now to revisit the assignment and operating rules we adopted in Docket No. 18262 in light of the experience we have gained in the invervening years. As already indicated, we believe that the appropriate method of doing this is through a Further Notice of Proposed Rule Making in this proceeding which will insure consistency of approach, rather than as UTC has suggested, having an allocation proceeding and then a separate proceeding which would consider the rules to apply to systems operating under the allocations. Further we believe in light of these views, some modification of our earlier decision in Docket 79–191 is appropriate. Finally, for reasons which will be discussed, we are consolidating our proceeding in Docket 79–334 into this proceeding.

Frequency Pools

33. Essentially, we believe for the reasons noted already that the proposals to group private land mobile radio service eligibles into four categories and to allocate a pool of frequencies to each category has merit, despite various arguments to the contrary. Allocations of pools of frequencies do not of necessity result in spectrum hoarding. We believe it strikes a reasonable compromise between total pooling of frequencies, as NMRA and others propose, and service-by-service allocations. The communications needs and the implementation approaches of entities vary among radio services and we do not believe that the public interest is served by adopting a free access to all frequencies approach when it has been demonstrated this results in vital communications requirements not being met. Accordingly, we are proposing to establish four service "categories," generally in accordance with the LMCC recommendation. These would be:

a. Public Safety/Special Emergency Radio Services.
b. Industrial/Land Transportation Radio Services.
c. Business Radio Service.
d. Specialized Mobile Radio Systems/ Multiple Licensed Facilities.

The structure of these categories, channel allocations and regulatory constraints are discussed in later paragraphs. We have not, however, proposed to include as eligible in the SMR category radio common carriers (RCCs) as the LMCC proposed. Docket 18262 allocated 30 MHz of spectrum for private land mobile communications systems, and 40 MHz for common carrier cellular systems. The frequencies in question in this proceeding are those allocated for private systems, and it is inappropriate to expand the eligibility for their use to the common carriers since 40 MHz of spectrum is available to them for their systems. There is not set forth in the LMCC proposal any reasoned basis for inclusion of the common carriers, and in the absence of documentation of why it would promote the public interest, we are not persuaded to propose such a change. Moreover, this does not appear to be necessary in view of the allocations made for cellular service in Docket No. 18262, and with the plans for implementation of that service being developed through the proceedings in Docket No. 79–318. *Inquiry Into The Use of the Bands 825–845 MHz for Cellular Communications Systems and Amendment of Part 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems*, CC Docket 79–318, *Notice of Inquiry and Notice of Proposed Rule Making*, 78 FCC 2d. 984 (1980).

Data Base

34. The LMCC, through its constituent members has expressed its confidence that within these broad groupings, or "pools," satisfactory methods for sharing the available frequencies, taking into account the particularized requirements of each eligible, can be developed on a fair and equitable basis, subject to established frequency recommendation criteria and Commission approval. The LMCC has also pledged its willingness to establish the data base necessary for the initial frequency selection process and to make it available to all users. It is not clear from the LMCC proposal, however, whether the LMCC is willing to make the information in its data base directly available to all applicants, should they wish to avail themselves of this resource. We, therefore, ask here for specific clarification from the LMCC as to whom they would make this data base resource available, and on what terms and conditions. We also ask the LMCC as to the specific type of information, if any, that the Commission would be expected to provide as input for this data base.

Slow Growth Local Governmental Systems

35. We believe there is merit in APCO's position that local governments should not be delayed in their implementation of slow-growth systems

pending the outcome of this further proceeding, since there is no essential issue with that portion of our earlier decision allocating channels for this purpose to local governmental systems. As described in the Report and Order, fifty (50) channels will be immediately available, therefore, to accommodate local governmental slow-growth systems. As described in paragraph 41 later, we are proposing to provide a total of 60 channels for the Public Safety/Special Emergency Radio Services category. The remaining 10 frequency pairs, for which the slow-growth systems would also be eligible, will be released upon termination of this proceeding. The 50 channels will be authorized subject to existing rules as outlined in the Report and Order. The new rules being proposed herein would somewhat alter the operating rules for these 50 channels. These proposed changes, if adopted, would bring the operations on these 50 channels by local governments into a framework consistent with that which would apply to the remaining 200 channels in the reserve.[19]

Docket No. 79-334

36. In Docket 79-334 we noted that the present rules governing licensing and operaton of trunked radio systems were designed primarily for mobile radio communications systems operating from a single transmitter site and providing radio service in a relatively small area (normally 20 to 35 miles in radius). We also noted that the needs of some users do not fit the single transmitter configuration. See *Memorandum Opinion and Order*, Docket No. 18262, FCC 2d 945 (1975). We acknowledged that certain types of activities require wide area or "ribbon" configurations which simply cannot be accommodated adequately by radio systems that employ a single transmitter site. We stated we would address these situations on a case-by-case basis.

37. Since heretofore we had been handling requests for such systems on an *ad hoc* basis, we initiated the proceeding in Docket No. 79-334 to permit revision of the rules governing trunked radio systems so that wide area, regional and ribbon systems could be authorized more routinely.[20]

38. After reviewing all of the submissions received in that proceeding, as well as the comments in this proceeding, we have concluded that these issues overlap in many regards. The most expeditious way to address them in our estimation is therefore to consolidate these proceedings. This has been done in our accompanying Order and this proceeding is therefore also expanded to address these issues.

Proposed Rules

39. The following is a discussion of the regulatory structure we are proposing for these channels, and a description of the procedures to implement their release and assignment.

Special Emergency Radio Service

40. The LMCC proposal, failed to include any discussion of the Special Emergency Radio Service and in which pool(s) it should be placed. In our recent action in PR Docket No. 81-110,[21] we proposed to split the eligibles in this service between the Industrial group and the Public Safety group, depending on whether the Special Emergency Radio Service eligible was a local governmental entity or not. On the other hand, in the past there has been sentiment expressed by APCO and others to group the Special Emergency Radio Service with public safety entities for coordination purposes. Therefore, we are proposing to expand the eligibility for the Public Safety frequency pool to include the Special Emergency Radio Service *in toto*, since we believe a unified approach to coordination of this service is preferable to fragmenting it.

Public Safety/Special Emergency Radio Services Pool [22] (60 channels)

41. Since we are proposing to group the Public Safety and Special Emergency Radio Services into a single pool, we are also proposing to augment the number of channels available to this pool by 10 frequency pairs to bring the total complement to 60 channels.[23] Additionally, we are proposing to remove the limitation imposed in our earlier Report and Order that use of these channels be confined to slow growth systems. Consistent with this proposed modification, we would eliminate justification of slow growth need and implementation scheduling reports to access the channels. Upon a demonstration of need, however, extensions for a longer implementation period than usual would be permitted. Further, we are proposing that any wide area, regional and ribbon configuration systems requirements be satisified on these frequencies. The only exception would be for presently authorized 5 to 20 channels trunked systems desiring to establish a wide-area, regional, or ribbon system utilizing some of their authorized channels outside of the initial service area. We would permit such systems to use the channels on a secondary basis rather than require the use of the new frequencies being released.

Industrial/Land Transportation Radio Services Pool [24] (70 channels)

42. With regard to the Industrial and Land Transportation category, we propose to allocate 70 channels from the reserve to this frequency pool to accommodate future systems including slow growth, wide area, regional and ribbon configuration systems (the only exception being the same as permitted above in the Public Safety/Special Emergency situation). Excluded from this pool are the Business Radio Service, SMRS operations serving more than a single user, and multiple licensed mobile relay systems, (e.g. "community repeaters").

Business Radio Service Pool (50 channels)

43. With respect to the Business Radio Service category, we propose to allocate 50 channels from the reserve to this pool to accommodate future systems including any wide-area, regional, and ribbon configuration systems (the same exception discussed above would apply). Excluded from this pool are multiple licensed radio facilities (e.g., community repeaters) and SMRS entrepreneurs.

Specialized Mobile Radio Systems (SMRS)/Multiple Licensed Facilities (70 channels)

44. We propose to allocate 70 channels from the reserve to this frequency pool for use by SMRS operations that serve more than a single user and to multiple licensed facilities (e.g. community repeaters). SMRS operators who serve only a single user

[19] Eligible slow-growth governmental systems will be authorized on the 50 channels previously allocated. New system authorizations will be conditioned so they will be subject to the final outcome of this proceeding. Slow-growth systems already authorized are put on notice that at renewal time they would be subject to rules established by the outcome of this proceeding.

[20] *Notice of Proposed Rule Making, Docket No. 79-334* (FCC 79-855), adopted December 19, 1979, released January 3, 1980.

[21] *Notice of Proposed Rulemaking, PR Docket No. 81-110*, FCC 81-70, adopted February 25, 1981, released March 9, 1981.

[22] Included in this pool are the Local Government, Police, Fire, Highway Maintenance, Forestry-Conversation and Special Emergency Radio Services. SMRS operations will be allowed only as discussed in paragraph 44.

[23] This pool would include the 50 channels already allocated to local governmental slow growth systems in the Report and Order in Docket 79-191, supra, plus an additional 10 channels.

[24] Included in this pool are the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab, and Automobile Emergency Radio Services.

would be eligible in the pool of the customer. We are not proposing wide area or ribbon operations for this pool on a routine basis. To the extent that particular customers of SMR systems have wide area or ribbon configuration requirements, we propose handling applications for waiver on a case-by-case basis depending on particular circumstances. Although GE has asked us to exclude multiple licensed facilities (so-called community repeaters) from this allocation, it has provided no information to support its allegation that multiple licensing has resulted in unfair or predatory business practices *vis-a-vis* SMR systems. In the absence of some hard evidence of such abuses, we are not inclined at this time to deny this valuable option to users. Further, we have an on-going proceeding on this issue in Docket 79-107, and we think that it is the more appropriate vehicle to explore these allegations. See *Notice of Inquiry*, Docket No. 79-107, FCC 79-283, adopted May 3, 1979, released May 11, 1979.

New Rules

45. The following is a discussion of the areas where the structure we propose for the remaining 250 channels differs from the structure developed for the original 350 channels. In all other cases, including interconnection of land mobile systems with the public switched telephone network, we will impose the same 800 MHz regulatory structure for the new channels that we now impose for the original channels.

Frequency Allocation

46. One area where the regulatory structure we propose for the new 250 channels differs from the structure we adopted for the original 350 channels concerns premissible channel uses. In assigning the original 350 channels, the Commission designated specific frequencies for use in conventional systems and specific frequencies for use in trunked systems in order to encourage adoption of the more efficient trunked technology to the extent it satisfied user needs. Indications, however, are that there are no clear user preferences for one approach over the other and, therefore, we now propose a regulatory structure which accords licenses the maximum degree of flexibility in implementing systems. Therefore, we propose to assign the remaining 250 channels to licensees for either the conventional or trunked mode of operations as desired by the applicant. However, once a channel is assigned for a particular mode in a specific area, we would not assign it in the same geographic area for the other mode. Also, a licensee, operating on exclusive conventional channels would be permitted to change to the trunked mode of operation utilizing his previously authorized channels. Such a change would require that the Commission be notified and that the trunked system would be subject to all applicable trunked system rules.

Channel Assignments

47. For all two-way systems, mobile station transmitting channels would be selected from those available in the 806-821 MHz band, and base station transmitting channels from those allocated in the 851-866 MHz band. There would be a uniform 25 kHz channeling, and the spacing between associated base and mobile frequencies would be 45 MHz.

48. The 250 channels would be arranged into ten, 20 channel blocks and 50 contiguous frequencies. Each 20 channel block would have a minimum spacing of 10 channels between frequencies within the block. Each 20 channel block is arranged into 5 channel groups with 40 channel spacings between successive frequencies in each 5 channel group. Each 20 channel block is successively offset by one channel to form the ten 20 channel blocks. The channel groups as well as the channel assignments to the four categories of users (service pools), is shown in Appendix E.

Limitation on Number of Channels

49. Under existing rules, a person or entity, with certain exceptions, may be assigned no more than five conventional channels in any one market area.[25] A person or entity, other than an equipment manufacturer, may be assigned up to 20 trunked channels at any one time.[26] If the licensee of a trunked system loads its system to capacity, the licensee may continue to be assigned as many as 20 additional channels at a time. For the new 250 channels, we are proposing to reduce the number of conventional channels that would be assigned to any one person or entity in any one market area to two (2). An applicant desiring a third conventional channel would be required to convert to trunked operation. However, we will consider the authorization of more than two channels for conventional system use upon the presentation of a showing that more than two channels are needed and that trunked system operation is not feasible due to the licensee's operating requirements. We are also proposing that trunked system applicants can obtain a minimum of three and a maximum of five channels at a time. They would have to load the channels to the loading standards being proposed herein before they would be eligible for up to another five channels.

50. Another area where we believe it might be appropriate to allow licenses of the new 250 channels greater flexibility concerns the limit on the number of channels that may be assigned to equipment manufacturer. Present rules limit manufacturers to the operation of one trunked system nationwide. The rationale for imposing this limit in Docket 18262 was to prevent manufacturers from gaining dominance in a new market. Our concern then was to offer potential competitors the opportunity to enter the 800 MHz equipment market and/or the 800 MHz communication market. Since the action in 18262, two factors have occurred which make a change in policy timely. First, there has been a substantial increase in entrepreneurs offering SMR services. The current restrictions have provided these SMRs an opportunity to become established in the market place without substantial competition by potentially dominant equipment manufacturers. In addition, there has been an increase in equipment manufacturers of trunked equipment.

51. Second, having initially provided protection for entrepreneurs to provide SMR services, the Commission is now concerned that trunked systems have not been put into use as rapidly as anticipated. It is felt that an increased level of participation by equipment manufacturers could serve to spur a greater utilization of trunked systems. On the other hand, arguments have been made against removing this restriction on the basis of possible restraint of trade and anti-competitive practices. We are tentatively proposing to change the rules to permit manufacturers to operate more than one trunked system, but we ask for additional arguments for and against, and we request specific factual information and case law on point. The rule being proposed would allow equipment manufacturers to operate one trunked system per market area as defined by the 40 dBu contour (approximately 20 miles from the transmitter site). While this proposal would give equipment manufacturers more flexibility than they presently

[25] Under Commission rules, a "market area" is considered to encompass about a 32 km. (20 mi.) radius from the transmitter site where the average signal level would be 40 dBu at the edge of the service area. See *Second Report and Order*, Docket 18262, FCC 74-470, footnote 26.

[26] "Equipment manufacturer" will be used to refer to RF equipment manufacturers of systems type-accepted to operate in the 800 MHz band.

have, it still imposes more restrictions on them than are imposed on other licensees. Therefore, we also solicit comments on an alternative proposal to remove all limitations on the number of trunked systems that can be licensed to manufacturers. Commenters should bear in mind that manufacturers, as well as other licensees of trunked systems, would continue to be limited by § 90.375 of the rules to loading only one trunked system at a time in a given area. Once a system is loaded however, manufacturers would be able to progress to licensing their next system in the same geographic area, under this alternative proposal.

Loading Standards

52. We turn now to the question of loading standards for this complement of reserve channels which we here propose to release. In so doing we deem it appropriate first to review Docket No. 18262[27] and the history of the way in which those 800 MHz channels previously released have been loaded.

53. In the Second Report and Order in Docket No. 18262 the Commission pointed out that because it was then dealing with novel and untried standards in a previously unused frequency band, future revisions of the assignment standards might be necessary.[28] The Commission again addressed the possibility of future changes in the new loading standards (as well as mileage separations for channel reuse) in its Memorandum Opinion and Order disposing of petitions for reconsideration of the Second Report and Order.[29] We noted there that the provisions for frequency assignment and loading of both conventional and trunked systems had been established will full consideration to accepted standards of good engineering practice. They were, in the Commission's view at the time, necessary to afford the quality of service that systems in this frequency band must have, if sufficient interest were to be generated in them to justify the additional expense of operating in that spectrum. Nevertheless, the Commission reiterated that:

> • • • (W)e will revisit all of the system parameters as we gain knowledge from actual operating experence; and adjustments will be made as it becomes possible to do so. *Memorandum Opinion and Order, Land Mobile Services*, Docket 18262, 51 FCC 2d at 978–9.

54. That revisitation was accomplished in the case of conventional systems in 1979. By notice of Proposed Rule Making in Docket No. 79–106 adopted May 13, 1979 (FCC 79–282, released May 23, 1979) we proposed revisions to the co-channel mileage separation and frequency loading standards to increase the loading levels for shared systems or for individual systems sharing the same channel in the same area to the level that previously had been prescribed for unshared single licensee systems. We also proposed to increase from 70% to 90% the level to which a licensee of a group of licensees must load a channel before it is assigned exclusively to that user or users. In addition we proposed that the 90% loading level be achieved in four months rather than the eight months then permitted. Finally we proposed to eliminate conventional channel loading maximums.

55. We instituted the rule making in Docket No. 79–106 because our experience over the several years that had elapsed since the 800 MHz frequencies were made available led us to believe that the initial loading standards for conventional systems had resulted in the under-utilization of spectrum. We took no action with respect to the standards for trunked systems because at that time licensing of these facilities had just begun and we had virtually no experience with them.

56. The comments in Docket No. 79–106 were generally favorable to the proposed revisions, except for very strong opposition to the twin proposals to increase from 70% to 90% the minimum loading level for channel exclusivity and to shorten from eight to four months the loading period. These latter proposals were ultimately dropped. In response to our inquiry as to whether different, higher loading levels should be imposed in the larger urban areas, Motorola, EIA and NABER all concurred, asserting that a higher loading standard should be applied where the need for frequencies was or would likely become greater.

57. Thus in a Report and Order in Docket No. 79–106, *supra.*, adopted September 25, 1979 (FCC 79–583, released October 3, 1979) we revised the loading standards for conventional systems as outlined above, but only in the case of those facilities operating within 75 miles of the 25 largest urban areas. Standards for systems operating elsewhere remained unchanged. The proposal to eliminate unconditionally conventional system loading maximums was not adopted in the *Report and Order.*

58. In the nearly two years that have elpsed since our action in the Docket No. 79–106 proceeding we have gained substantial practical experience in the assignment and loading of trunked radio systems as well as further knowledge of the efficiency of our standards for conventional systems. We are persuaded that higher loading for both conventional and trunked systems should be imposed for the new channels. We are also convinced, for the reasons set forth at paragraphs 65 *et seq., infra,* that the higher loading standards and shorter construction periods which we are proposing for conventional and trunked systems operating in and near the larger urbanized areas should be applied to conventional and trunked facilities now operating and authorized in the future to operate on the initial group of 150 conventional and 200 trunked channels. We further believe that our posposed removal of the loading maximum on all SMR, community repeater and single user channels should also be applied to systems operating on the original 350 channels.

59. We look first at the minimum requirements for loading a channel (or groups of channels in the case of trunked systems) to obtain exclusive use of these frequencies. We believe that the present 70% loading minimum for exclusivity is too low and results in under-utilization of the channel. This inefficiency is demonstrated, for instance, by the situation in the Chicago urban area where one of the 150 available conventional channels may be exclusively secured in the Special Industrial Radio Service by as few as 49 mobile units (70% of the prescribed maximum of 70 mobile units), and in the Business Radio Service, by 63 mobile units (70% of the maximum of 90 units). In the Los Angeles urbanized area, a number of community repeaters are loaded to much less than 70% of capacity (63 mobiles), and that situation has continued for several years.

60. These circumstances demonstrate, we believe, that both the requisite level

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[27] *Second Report and Order, Land Mobile Radio Service*, Docket No. 18262 (46 FCC 2d 752, adopted May 1, 1974).

[28] "• • • (W)e wish to be clear that it is our intention to review and study continually all aspects of our assignment plan. In this regard, we fully recognize that the subject concept is new. It is in part untried and untested. Most likely changes and modifications will have to be made; and we will be alert to adjust our policies, standards, and criteria to what the public interest requires. This will be done on our own motion; and, in addition, we would expect, and we request, significant input from the land mobile industry and from land mobile users and those representing them. However, we are confident of the soundness of the structure of the measures we have adopted; of the desirability of the goals and objectives we have set for ourselves; and of the benefits to the public that will flow out of our approach to licensing at 800 MHz." 46 FCC 2d at 781–2.

[29] *Memorandum Opinion and Order, Land Mobile Service*, Docket No. 18262, 51 FCC 2d at 978–9.

of loading for channel exclusivity and the prescribed maximum loading levels demand revision. On the other hand, we remain convinced that any period shorter than eight months in which to achieve construction and operation of a conventional system would be unrealistic. Therefore, we propose that the level of frequency loading necessary to obtain channel exclusivity be increased to 90% and that such level be achieved within eight months of authorization of the facilities. We also propose to increase the prescribed maximum number of mobile units to be loaded on conventional systems operating within 75 miles of the 25 largest urbanized areas, as specified in § 90.477(c). In those areas, where loading is presently 50 mobiles for Public Safety facilities, it would be increased to 70 units. Business facilities, which now have a total loading of 90 mobiles, would instead have a total of 110 units. Most other radio services, which now have a total of 70 mobile units, would be increased to 90 units. The loading of SMRs and multiple licensed facilities (e.g., community repeaters) would be determined by the eligibility of the sharing users. The figures now prescribed in our rules for portable units would be adjusted proportionally. (See § 90.377(b)).

61. We stress that these higher mobile unit levels would be imposed only in the case of systems to be located in and near the largest urban area. We believe that the present frequency loading standards, even though they represent increases over the levels initially prescribed when these frequencies were allocated, are still conservative and can be further raised while nevertheless upholding a quite satisfactory quality of service. However, we do solicit specific comments on the effect these increased mobile unit levels will have upon the grade of service offered by conventional systems, keeping in mind that we anticipate having the benefit of frequency coordinators in assigning users to shared channels operating with these proposed higher loading levels.

62. In other locales, where demand for spectrum is minimal and where that situation should continue for some time, the loading level for exclusivity will still be 90% but the licensee would have two years from authorization of the facilities in which to achieve that level of loading. We propose, moreover, to apply these loading standards and other rule provisions governing channels in the new group of frequencies to any of the 350 channel pairs which have been assigned but are subsequently retrieved due to the failure to meet the loading standards prescribed for channels in the initial group of frequencies. These new rules would be applied to retrieved frequency pairs at the time the channels are reassigned. The new rules, including the loading provisions, would also govern SMR systems authorized to operate on any of 350 initially released channels at the time of renewal of SMR systems, provided that, at renewal, the SMR systems were not loaded to the maximum levels prescribed in our rules.

63. Our experience during the last two years of authorizing trunked systems convinces us that higher loading is appropriate here, also. Our rules presently permit trunked applicants to be authorized for increments of 5, 10, 15 or 20 channels. A licensee may build an entire system—no matter how many channels—in one year. In that case the licensee has five years to reach the requisite 70% loading for channel block exclusivity. A licensee of more than 5 channels who elects to build in stages need build only the first stage in the year following authorization and then has two years in which to load that first segment, with another three years in which to reach the minimum 70% level on the balance of the frequencies. Furthermore, our rules now provide that a trunked SMR system has one year in which it may be constructed. There is no requirement that the SMR facility serve any mobiles after construction, so long as after five years (two years for the first stage if built in stages) there are loaded the minimum number of mobile units prescribed in the rules. These rules for trunked systems have allowed the situation in larger urban areas where large numbers of trunked channels have been assigned to SMRs but have only a handful of mobile units on them. Under the present rule structure, we cannot make these channels available to others for two—and in many cases five—years. There is no explicit provision now contained in our rules for the cancellation of part or all of these trunked authorizations at the end of the prescribed loading period where the minimum levels have not been achieved.

64. Accordingly, we would limit any initial trunked authorization on the new frequencies to five channels. In addition, we propose to increase the minimum loading level for achieving channel block exclusivity from the present 70% to 90%. The latter level would remain the minimum loading necessary to be assigned a second trunked system. The period during which the 90% level for channel exclusivity may be obtained would be two years rather than the five years presently allowed to systems authorized on the trunked spectrum released in the Docket No. 18262 proceeding. At the conclusion of the two-year loading period, where the requisite minimum level has not been achieved, the channels not so loaded would automatically be cancelled. For example, if a five-channel SMR system at the end of the two years only served 200 mobiles rather than the 450 (90% of 500 units) to be required by our new rules as the minimum for exclusivity, three of the channels would then be "taken back" pursuant to specific provisions in the new rules which would also be stated on the face of the authorization. Such sanctions would be imposed only when all channels have been authorized in an area and a waiting list has been established.

65. After reviewing our channel assignments and loading records for trunked SMR systems as well as conventional SMR and community repeater facilities operating in the three largest urbanized areas—New York, Chicago, and Los Angeles—and the relatively light loading of mobile units on these systems, we are persuaded that the higher loading standards and shorter construction periods we are herein proposing should also apply to previously authorized conventional and trunked systems. For instance, as of May 1, 1981, in the New York City metropolitan area, 27 SMR trunked systems are presently authorized to serve 1713 mobile units. Some previously issued authorizations for SMR systems in the New York City area have been cancelled for failure to construct within the one year period prescribed in our rules, and the frequencies were re-assigned for new or expanded SMR systems; in one instance, for a 20 channel single-user facility. Of the 27 trunked SMR systems in New York area, 25 were authorized more than a year ago. Our rules now state that a total of 500 mobile units can be assigned to a 5-channel system. Of these New York systems, one 5-channel system has no mobile units, there are eight 5-channel systems each with fewer than 20 mobiles, and four 5-channel systems each have fewer than 100 mobiles. The first 5-channel stages of three 20-channel systems, have 11, 36, and 100 units respectively. Meanwhile there is a waiting list of 8 applications seeking 125 channels for new or modified trunked systems in or near New York City.

66. Similar situations exist in Chicago and Los Angeles. In Chicago, four 5-channel SMRs authorized more than a year ago serve no mobile units; four 5-channel systems serve fewer than 10 units; and six such systems serve less than 100 units. There has been some

recovery of channels in the Chicago area due to failure to meet construction deadlines. Yet in Chicago there is a waiting list of 13 applicants, some of whom are licensees of the above-cited sparsely loaded systems, seeking an aggregate of 145 trunked frequencies. In Los Angeles, ten 5-channel systems have no mobile units, five others serve fewer than 10 units each, and another five systems serve fewer than 100 mobiles. There has been no recovery of channels due to failure to meet construction deadlines. Since June 1979, there are 28 applications pending on the Los Angeles area waiting list. They seek a total of more channels than are available in the reserve group. Also, among these applicants are licensees of existing trunked SMR systems seeking to expand even though they are not loaded or serve only a handful of mobile units. Los Angeles records indicate that a significant number of conventional community repeaters are loaded far below 70% of capacity.

67. The foregoing review of the conventional and trunked channel availability and loading situations in the three largest markets illustrates under-utilization of these frequencies and indicates our regulatory objectives are not being met. Existing rules require only construction, but not loading, within the first year of authorization of trunked facilities. All trunked systems now have five years in which to reach the 70% loading level prescribed in the rules, except for those facilities building in stages, where the first state must load to 70% of that stage's capacity within two years after licensing. Conventional channels often are under-utilized also, as the Los Angeles situation described above indicates.

68. In order to provide the fullest measure of relief in those urban areas where channel demand is greatest, we are proposing to make the channel loading and construction standards for conventional and trunked systems operating on the new block of frequencies, within 75 miles of 25 largest urban areas also applicable to existing systems operating on presently assigned channels. We have noted at paragraph 53, *supra*, that in Docket 18262 the Commission contemplated adjustments in the rules where this was found necessary and appropriate through experience gained in the administration of the novel method of channel assignment and loading adopted in that proceeding. There is little question, in view of the many under-utilized channels and long waiting lists in the largest urban areas, that the construction and loading periods prescribed initially for these systems have not been effective. These adjustments in conventional loading levels are not major in nature and are proposed only where channel demand is greatest. We are confident that these proposed higher conventional loading levels will still provide service of good quality. Accordingly we proposed that these new loading and construction standards, if adopted, would apply to *all* conventional and trunked system operations on *all* 800 MHz band channels, including those previously authorized, if the systems are located within 75 miles of the 25 largest urbanized areas. The permissibility of this approach was thoroughly considered when we modified the 800 MHz conventional loading and separation standards in Docket 79-106. (Report and Order, FCC 79-583, released October 3, 1979, at paragraph 16). As we noted there:

> If we failed to give these revised rules immediate effect, with respect to existing licensees, the beneficial effects of this entire rule making would be lost in those urbanized areas where conventional channels have been or may in the future be exhausted.

69. Our experience with trunked SMR systems since 1979 and our longer experience with conventional facilities have shown that retroactive application of these new rules will provide the requisite efficiency of spectrum usage and enable us expenditiously to reclaim unused spectrum for reassignment of other users. There is a clear line of precedent for this action. *California Citizens Band Association v. U.S.*, 375 F. 2d 43, 51-52 (9th Cir. 1967), *cert. denied*, 389 U.S. 844 (1967); *General Telephone Co. of Southwest v. U.S.*, 449 F. 2d 846, 863-864 (5th Cir. 1971). See also *U.S. v. Storer Broadcasting Co.*, 315 U.S. 192 (1956); *American Airlines v. C.A.B.*, 359 F. 2d 624 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 843 (1966); *Air Line Pilots Ass'n v. Quesada*, 276 F. 2d 892 (2d Cir. 1960); *WBEN, Inc. v. U.S.* 396 F. 2d 601 (2d Cir. 1968), *cert. denied*, 393 U.S. 914 (1968); *Pacific and Southern Company v. FCC*, 405 F. 2d 1371 (1968). See also Section 304 of the Communications Act of 1934, as amended (47 U.S.C. § 304), which provides that the rights of licensees are always subject to the regulatory power of the Commission.

70. As already indicated, we propose to adopt a bifurcated loading standard, imposing these new loading standards where the need for frequencies will be greatest—in the 25 largest urbanized areas, as listed in the Table contained in § 90.477(c) of our rules. Elsewhere the standards now contained in § 90.375 and 90.377 of our rules for all trunked systems and for conventional systems outside the 25 largest urbanized areas would also apply to this new allocation. We want, therefore, to assure existing and prospective licensees of facilities which are operating on, or will use in the future, the original, group of 800 MHz channels beyond 75 miles of the 25 largest urbanized areas, that we are proposing no change in the construction or loading criteria now governing those facilities. If should be noted that the Commission is primarily concerned with protecting the integrity of the spectrum. Of particular concern are situations where there is an existing demand for spectrum, and assignments have been made but are not being utilized. As previously indicated, this problem seems to be confined to the major and urban areas. The Commission intends, therefore, to focus its enforcement efforts in these areas. There is no data before us which would indicate a need for similar rules outside the major urban areas. Comments are specifically requested on the more stringent loading requirements.

71. A related question is the authorization of trunked radio systems of fewer than five channels. We have received informal suggestions that there is a demand for these smaller facilities. In particular, it has been suggested, trucked radio facilities are attractive, aside from the relatively high price, to prospective users in smaller communities outside the major metropolitan areas. It has been suggested that three or four channel SMR systems will encourage and thus increase entrepreneur involvement in the trunked SMR marketplace. It should also be noted that if we "recapture" portions of prior channel assignments due to failure to meet the minimum loading standard, then we will have spectrum consisting of "off lots," thereby making three or four-channel assignments for trunked systems feasible. We propose, therefore, to license trunked systems with a minimum of three channels. These smaller trunked facilities would be authorized both within and beyond the largest urbanized areas.

72. We have set forth how we propose to adjust the mobile loading totals for conventional systems and the percentage of those totals necessary for channel exclusivity. We now take up the question of the loading *maximums* for conventional and trunked shared facilities. In the past we have required SMR licensees and other multiple licensed systems operators to obtain the consent of all sharing users before the loading maximums prescribed in our

rules for conventional systems could be exceeded. The Commission has not specified whether the same process could be employed by trunked SMR licensees who desire to exceed the loading levels prescribed in our rules. We here propose to lift the loading limits unconditionally and retroactively for all conventional and trunked systems—single user, community repeater or SMR. Mobile licensees of community repeater or SMR facilities may change systems if the loading level is unacceptable for their requirements; licensees of single user systems can load mobiles as they deem appropriate to their needs. Hence, the market place would govern, in terms of acceptable quality of serviced, the loading maximums. The mobile unit totals specified in our rules would thus be significant only for determining whether the requisite *percentage* of full loading had been reached for channel exclusivity or to obtain an additional conventional frequency or group of trunked frequencies. In this way our goal of increasing efficiency of frequency usage should be furthered.

Technical Flexibility

73. Another area where the regulatory structure for the new 250 channels differs from the structure we imposed for the original 350 channels concerns allowing certain licensees in the new 250 channels greater technical flexibility.[30] Specifically, we believe it would be advantageous to allow flexibility in choosing the type of emission mode to be used and the amount of bandwidth to be occupied. This type of flexibility would enable licensees to use the combination of emission mode and bandwidth that is most appropriate for their particular communication requirements. We believe greater technical flixibility is important for several reasons. First, it would enable licensees to engineer their communication systems without being constrained to use a specific emission mode or bandwidth. Second, it will recognize the fact that the "best" combination of emission made and bandwidth may differ for various users as well as for various geographic areas. While it is conceivable that the Commission could develop geographically specific rules, this would be a difficult task, and would undoubtedly constrain some licensees more than necessary. A third reason for permitting these types of flexibility is that the existing regulatory structure for the 800 MHz channels serves to perpetuate the status quo. For example, th current 25 kHz bandwidth in the 806.821 MHz and 851–866 MHz bands encourages licensees to use FM emissions, since this is the best type of emission to use given that bandwidth and other current technical requirements. Equipment manufacturers are unlikely to commit large sums of money to develop a more efficient technology unless there is some assurance that the Commission would allow licensees to utilize new technologies which would be more appropriate to their needs.

74. In order to permit licensees to choose an alternative emission mode or bandwidth, we believe it is necessary to develop a more flexible set of technical standards regarding authorized emissions. We propose to regulate these new channels in such a way that licensees will have the option of using any emission mode they desire, provided the emissions are contained within the authorized bandwidth. Furthermore, we propose to allow a licensee to establish more than a single emission, that is, more than one channel, within the authorized bandwidth to provide the greatest flexibility and to permit the most effective use of spectrum-saving techniques. For example, a licensee desiring good speech quality might elect to utilize the assigned bandwidth entirely for an FM mode of modulation, while a licensee desiring more channels might employ a mode producing lower speech quality, but requiring a smaller bandwidth. The second licensee would be permitted to divide the authorized bandwidth possibly into several individual channels.

75. To allow this flexibility, we must identify which standards we propose to change and how we propose to protect licensees from unacceptable interference. For ease of discussion, we will refer to standards for intended emissions occurring inside the authorized bandwidth as "in-band" technical standards and to standards for unintended emissions occurring outside of the authorized bandwidth as "out-of-band" technical standards. We propose to continue to identify channel assignments by the center frequency even though this may not necessarily correspond to the emission carrier frequency. Since the current out-of-band technical standards appear to be adequate in protecting against interference in most cases [31] without placing an excessive burden on transmitter design, we propose to retain these standards for the new channel release.[32]

76. The in-band technical standards should provide the greatest possible flexibility while protecting co-channel licensees from excessive interference. We intend to permit combinations of output power and authorized bandwidth occupancy which are consistent with these goals, while not presupposing any specific type of modulation technique or spectrum usage.

77. The approach we have developed is to normally allow licensees to employ any bandwidth up to a maximum of 25 kHz and any effective radiated power up to a maximum of 1000 watts in urban systems, and 500 watts in suburban systems [33] over the entire 25 kHz channel. In cases in which a licensee chooses to use more than a single emission within a 25 kHz channel, the sum of the emissions may not exceed the afore-mentioned limits on effective radiated power. Other constraints on output power may also be necessary as discussed later. The maximum antenna height authorized for the above power limits is 304 m. (1000 ft.) above average terrain (AAT) for urban systems, and 152 m. (500 feet) AAT for suburban systems. For antenna height greater than 304 m. (1000 ft.) AAT in urban systems, or 152 m. (500 ft.) AAT in suburban systems, effective radiated power shall be reduced in accordance with existing rules.

78. It is evident that this more flexible set of technical standards will make many of our current requirements, as they might apply to the new channels, ambiguous or obsolete. For example, since we intend to permit any type of emission, including those which are not traditional or not currently recognized, the designation of specific emission classes for the frequencies is inappropriate. Consequently, we do not intend to apply these current emission designations to the new channels. Furthermore, for the same reasons, we propose to eliminate all restrictions on "non-voice" and other specialized

[30] The greater technical flexibility proposed herein would be limited to the channels assigned for exclusive use to a single licensee, to SMRS operations and to those shared systems where all users agree to the intended use of the channel.

[31] In certain cases, such as amplitude companded single side-band transmitters, type-acceptance tests will be performed for worst case conditions (i.e., operating on frequencies nearest the channel edge).

[32] See § 90.209 of the Commission's rules, 47 CFR 90.209.

[33] Systems to be located within 24 km. (15 mi.) of the geographic center of the 50 urbanized areas detailed in 47 CFR 90.365 will be considered "urban" systems. All others will be considered "suburban" systems. Systems located on Santiago Peak, Sierra Peak, Mount Lukens or Mount Wilson (all in California) will be permitted to utilize an effective radiated power of 1000 watts. Pending propagation tests in the Southern California and Mexican border areas may result in reduced ERP limits being imposed.

operations. Since we intend to permit a licensee to operate any number of channels desired in any configuration within the assigned channel, current requirements regarding frequency stability would no longer be applicable as discussed below. We propose to eliminate all such requirements, subjecting licensees only to the constraint that they comply with the out-of-band emission standards at all times.

79. We believe that it is appropriate to propose this more flexible technical approach during the initial release of these new channels, as it would be significantly more difficult to implement such an approach later in the development of this allocation. However, a prime concern in allowing such technical flexibility is to cause no increase in the interference levels to other users of the spectrum. As stated in paragraph 67 above, the existing out-of-band technical standards appear to be sufficient to protect against interference and should be retained. Yet, the necessary overlap of the adjacent channel receiver bandwidth and the frequency stability of both the transmitter and the receiver could also necessitate retaining the in-band emission standards. Specifically, those standards currently contained in § 90.209(g) may have to be retained. Stations wishing to operate, utilizing a narrow bandwith transmission, at the edge of the channel may be required to reduce their output power level below the level authorized in this service by an amount dictated under § 90.209(g). For example, a 5 kHz wide transmission that is centered 10 kHz from the carrier frequency (7.5 kHz to 12.5 kHz from the carrier frequency) may be restricted to a maximum power output between 15 to 35 dB below that normally authorized. The attenuation of out-of-band emissions would be required to comply with the standards contained in § 90.209(g)(2) for signals removed from the carrier frequency of 12.5 kHz and greater.

80. The possible use of the entire 25 kHz channel assignment is described in the above paragraph. This conceivably could be applied to allow a 25 kHz transmission bandwidth, albeit at a reduced power level, versus the present 20 kHz bandwidth limitation. This technique could allow the transmission of higher data rates, etc. However, the deletion of the frequency stability requirement may necessitate including the frequency stability of the transmitter with the bandwidth of the transmission. Under this technique, the total transmitter bandwidth would be the bandwidth (either occupied or necessary bandwidth, whichever is the greater of the two) of the transmission plus twice the frequency stability of the transmitter. This is the same concept as presently contained under § 90.217 of the Commission's regulations.

81. Comments are requested on the above in addition to other ideas or problems which would allow or restrict such a flexible channel utilization without increasing the interference to other users. For example, would it be more desirable to restrict narrowband operation to only two channels, 12.5 kHz wide, on each side of the carrier frequency? Would operation at the channel edge be feasible considering the possibility of reduced power output? Would the use of 12.5 kHz off-set channels still be feasible under this system and would such off-set operation require additional standards or restrictions? Are narrowband modulation techniques sufficiently developed to warrant the introduction of this concept at this time? In regard to the latter point, the Commission is well aware of the developmental work being done in the 150 MHz region to improve and implement narrowband transmissions, primarily amplitude companded sideband (ACSB) transmissions. However, that particular modulation technique is not currently feasible in this frequency range. Procedures do exist to reduce the frequency deviation of an FM signal, causing a reduction in the quality of the transmitted signal, or to decrease the data rate of transmission, both resulting in a bandwidth reduction. Is there sufficient demand for these techniques to justify the necessary changes contemplated in this item?

82. With respect to the type acceptance of transmitters to be used on the new channels, it may be necessary to test equipment for type acceptance purposes under worst case conditions, i.e., operating in the frequency band nearest the channel edge as designed bandwidth permits and under the conditions of worst frequency drift. This technique could require that transmitters be approved to operate only within specific portions of the channel. For example, the approval of a medium power, 10 kHz bandwidth transmitter may require that operation of the transmitter be restricted to the center 15 kHz of the authorized channel. Such an approval would restrict any potential operator as to the amount of remaining spectrum within the channel that he could effectively utilize. Additionally, it could create a type acceptance subscript designation, to show where the transmitter could be located, that would be both confusing to the public and administratively difficult to license, type accept, and monitor. An alternative would be to require that all transmitters be approved as though they were to be operated at the edge of the assigned channel. This latter point would put tighter restrictions on equipment design and manufacture than the current regulations and would require the use of separate amplifiers to boost the output power for those transmitters located in the center of the channel assignment. Comments are requested on this matter.

83. Our proposed technical rules and channeling plan are based on the assumption that for conventional and trunked systems, discreet channel FM technology will be the normal mode of operation in this band. However, as discussed above, we have also proposed to allow a certain degree of in-band technical flexibility to permit, within channels exclusively assigned, the use of multiple narrow band emissions, at the discretion of the licensee. Similarly, it would be desirable, we believe, to allow applicants who can justify exclusive use of more than one 25 kHz channel to elect either interleaved or contiguous channels, depending upon the particular system technology desired. For example, contiguous channels can be used for technologies such as time division multiple access (TDMA), packet radio, and spread spectrum. Such technologies require contiguous spectrum but may be more efficient than conventional FM systems in terms of users/MHz/sq.km. Again, since we expect that most systems will be of the normal FM, discreet channel variety, the proposed assignment plan arranges most (200) of the channels into non-contiguous groups. However, we have also provided in each service allocation, several contiguous channels in either two, three or four-channel groups. Thus, applicants proposing large systems, which can justify multiple, exclusively assigned channels, may apply for either interleaved or contiguous channel groups.

84. Where contiguous channels are assigned to a single licensee in a given area, the adjacent channel limits of § 90.209 will apply only to the upper and lower edge of the combined bandwidth. also the total in-band power permitted within the contiguously assigned bandwidth would be the power normally permitted within a 25 kHz channel, times the number of channels assigned. Thus, an urban assignment of, for example, three contiguous channels (75 kHz of spectrum) would be permitted a total in-band power of 3000 watts ERP except in the border areas. To control

co-channel interference, no more than 1000 watts ERP (500 W rural) would be permitted within any 25 kHz segment of assigned bandwidth.

85. Because there are only a few contiguous channels available in each service block, a rule may be appropriate which would reserve them temporarily for systems requiring contiguous spectrum assignment in excess of 25 kHz. Such a reservation might be made to apply only for as long as all of the other, interleaved channels have not been assigned in each area. Comments on this proposal are especially invited as well as on the desirability of allowing licensees, who are originally assigned interleaved channels, to voluntarily exchange or trade channels at a later date to acquire adjacent channels for new technologies requiring larger blocks of contiguous spectrum. This additional flexibility would permit the introduction of more efficient wider bandwidth technologies, which may become feasible in the future, without delay of rulemaking.

Frequency Coordination

86. Since we are proposing that the remaining reserve channels will be subject to different criteria than the original 350 channels, we will consider the issue of frequency coordination. The frequency coordination requirements in § 90.175 of the Rules do not apply to the original 350 channels since the Commission deleted the block allocation concept and assigned all frequencies. As previously indicated, we are now proposing a modified approach to the block concept. Accordingly, we are proposing that applicants for the remaining 250 channels would have the option, as described in § 90.175, of either obtaining the services of a frequency coordinating committee in selecting their frequencies, or making their own selection and submitting the necessary field study. This option would apply to all eligibles in all four categories, including SMRS operators and applicants in the Special Emergency Radio Service. If station distance separation is requested, or recommended, in accordance with our present separation standards as specified in § 90.365(b) (1) thru (5), only the required field study or coordination letter will be submitted with the application. We also request comments on whether there are less costly alternatives to the use of frequency coordinators than the submission of a field study. As an example, an applicant might certify that he meets the mileage separations in the Rules based on the latest frequency data base published by the Commission.

87. Also, in an attempt to obtain the most efficient utilization of these new channels, we are proposing allowing applicants or coordinators to request a decrease in the separation distance between co-channel stations now mandated in the rules to take into account special conditions such as terrain, antenna height, transmitter power, service area required, etc. When such a decrease from the presently established mileage standards is requested, a letter of concurrence shall be submitted from all affected licensees, i.e., all co-channel licensees closer than the mileage separation stated in the rules.

88. In addition, we are proposing to allow applicants a greater leeway in the frequency recommendation process. For example, applicants, with the assistance of the frequency coordinator, if one is used, will be permitted to select and request the frequencies for any wide-area or ribbon systems that they may require based upon their own analysis of potential co-channel interference, since these types of system designs are more complex than the standard base/mobile or repeater type systems, due to such factors as station separations, area of coverage necessary, conventional and/or trunked system considerations, it is felt that the applicant is in the best position to select frequencies for the proposed system, subject to Commission approval. However, if an applicant should desire to expand an existing system for wide-area or ribbon operation, any new station that is fit in between existing co-channel assignments, will be authorized only with the concurrence of those co-channel users, if any, located closer to the proposed station than the mileage separation stated in the rules.

89. Another area where we are proposing additional leeway in the frequency coordination process is that we will consider requests for frequencies and station separation distances that are different from the norms where they are based upon other justifiable needs of the applicant. Such factors could include consideration of projected mobile growth rate, area, type, and hours of system operation, and channel loading.

90. Also, to further enchance the use of this new spectrum, we are proposing to allow inter-category frequency sharing similar to that as proposed for other frequency bands in PR Docket 81-110 [34]. As an example, an applicant who finds that there are no frequencies available in the category for which he is eligible, may apply for frequencies in any of the other three categories provided that the frequency advisory committee(s) having responsibility for the coordination of the frequencies concur in its "out-of-category" assignment. This "out-of-category" assignment also shall not result in any harmful interference to any existing to planned system, shall comply with all technical requirements, and shall be deemed by the Commission to be in the public interest.

Southern California/San Diego Area Channel Allocations

91. In the Southern California area, a slightly different arrangement from the rest of the U.S. is necessary because of the proximity of San Diego to Mexico, and to unusual propagation conditions in the Southern California region. The San Diego area has not had the benefit of the use of frequencies in the 800 MHz band and the number of channels to be allocated to this area is contingent upon a pending agreement with Mexico. Considering the population distribution in Southern California, it appears that the Los Angeles area population is approximately 7 times that of the San Diego area. Therefore, a similar division of the total number of channels available (600) between the two areas would result in approximately 500 channels allocated to the Los Angeles area and 100 channels to the San Diego area. Since Los Angeles already has access to 350 channels, an additional 150 would be allocated for their use, making a total of 500 channels. Therefore on this basis, the proposed allocation of the 250 reserve channels to the two areas is given in the following table:

Categories	No. of Channels	
	San Diego	Los Angeles area
Public Safety/Special Emergency	25	35
Industrial/Land Transportation	25	45
Business	20	30
SMRS/Comm Rptr	30	40
Total	100	150

The number of frequencies for each category of user groups for the San Diego and Los Angeles areas is approximately in the same ratio as the number of frequencies available to these groups throughout the rest of the country.

92. To be compatible with existing allocation arrangements in the 800 MHz band in the U.S., of the 250 channels available, 200 channels have been divided for trunked or conventional use

[34] *Notice of Proposed Rule Making, PR Docket 81-110*, FCC 81-70, 46 FR 16104, March 11, 1981.

into ten (10) blocks of 20 channels and the remaining 50 contiguous channels would be available for conventional use for systems located more than 200 miles from the U.S./Mexico border. Appendix E shows the proposed channel and frequency arrangements for the San Diego and Los Angeles areas. Actual frequencies will be published when a formal agreement is signed with the Mexican government.

93. Because of the known unusual propagation conditions in a generally north-south direction in the Southern California area, coupled with the use of generally very high antenna site elevations, co-channel interference is experienced over longer distances than predicted. The Commission has established a program to explore these conditions and until the results of this program are analyzed, we believe that a 200 mile restriction on frequency reuse in a north-south direction would be appropriate. If a lesser distance were established, applicants in the Southern Los Angeles area would obtain the frequencies more rapidly than applicants in San Diego because of their greater numbers. Should this lesser distance prove inadequate because of interference due to propagation, the San Diego area would again be penalized in quality of service due to their unusual circumstances. Therefore, to prevent interference among frequencies assigned in the San Diego area and the Los Angeles area we propose that the 100 channels allocated to San Diego only be assigned within the boundary of San Diego County and not be reused within 200 miles north of the U.S./Mexico border and west of longitude 116 west.

94. The NMRA proposed that a full compliment of 600 conventional and trunked 800 MHz channels offset 12.5 kHz from the Los Angeles frequencies be made available in San Diego. We recognize that the use of offset frequencies can, in certain instances, permit greater frequency re-use, and in fact considered their use. However, the use of offsets are not a viable solution in this case. First, since the 800 MHz spectrum will be shared by the U.S. and Mexico, any 12.5 kHz assignments would require some sort of coordination between the two countries. Secondly, the approximately 15 dB advantage that offset operation has over co-channel operation is insufficient to overcome the long distance interference experienced in the Southern California region because of propagation conditions. For these reasons the use of offset frequencies was rejected and replaced with exclusive area frequencies.

US / Canada Border Areas

95. These new channels are not available within 233 km (145 miles) of the Canadian border. This area will be addressed at a later time once the border area issues are resolved. Stations located between 233 km (145 miles) from the Canadian border and 402 km (250 miles) must coordinate their operations under existing agreements.

Application Processing and Station Authorizations

96. We are proposing the following procedures for releasing and assigning these channels. Each eligible person or entity may apply for a maximum of 5 channels in a single market area. The purpose of imposing the 5 channel limitation is to insure that in market areas where there will be a great demand for these new channels, all applicants will have a reasonable opportunity to obtain spectrum. Applications for more than 5 channels in a single market area as well as applications for radio facilities that cannot be granted in any area will be returned.

97. Applications for new licenses in New York, Los Angeles, Chicago, San Francisco, Houston, and Dallas/Fort Worth which could not be granted because of lack of frequencies and have been placed on a waiting list pending the availability of new frequencies will be returned to the applicant for modification necessary in accordance with the new rules. Modified applications resubmitted will retain their original place in line. The Commission will not add any new applications to these lists, nor will any new lists for additional cities be created.

98. Applications for modification of an existing authorization to add new channels will be retained on the waiting list only if the licensee's initial channel authorization meets the loading criteria of the rules. Applicants whose present systems are not fully loaded will have their applications returned.

99. Also, we are proposing that the allocation of the quantity of channels assigned to each of the four groups automatically expire at the end of three years, making any remaining unassigned channels available to any eligible applicant. We ask for comments on this approach and on any alternative approaches, such as keeping the number of channels allocated to each group permanent, or having the Commission revisit the boundaries of channels for each category pool after five years of the date of any Report and Order we might adopt.

100. While we recognize that these proposals are a departure from the strict "systems" licensing approach which we adopted in Docket No. 18262, *supra*, we believe it is appropriate to revisit as well that portion of our decision in light of the experience which we have gained in the intervening years. Further, in Docket No. 18262, we specifically stated, as petitioners note, that as matters developed at 800 MHz, the Commission would re-examine and where appropriate modify our initial regulatory approach. Our experiences in the intervening years since 1974 has disclosed certain inefficiencies in potential spectrum utilization that have arisen out of the initial and modified Docket No. 18262 allocation plan. We seek to determine, therefore, whether the modifications we propose here would permit more effective use of the radio spectrum available to the classes of eligibles involved.

101. We believe that there are clear public benefits to be achieved by these rules which are proposing, and we feel these groupings and frequency assignments, plus frequency coordination and greater frequency sharing if ultimately adopted, can result in more efficient spectrum utilization of without degradation of service. This is why we are proposing to make the trunked loading standards set forth in paragraphs 62 *et seq., supra*, fully retroactive to all trunked systems operating on any 800 MHz channels within 75 miles of the largest 25 urbanized areas. This is also why we are proposing to lift the channel loading maximums for all conventional and trunked systems wherever located.

102. Pursuant to procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before September 14, 1981, and reply comments on or before October 14, 1981. The Commission will consider all relevant and timely comments before taking final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

103. In accordance with the provisions of Section 1.419 of the Commission's Rules, 47 CFR 1.429, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner

to have a personal copy of their comments should file an original and eleven copies. Members of the public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

104. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presenation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. see generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

105. Accordingly, notice is hereby given of rulemaking to amend Part 90 of the Commission's rules, in accordance with the proposal set forth in Appendix E below.

106. The proposed amendment to the rules is issued pursuant to authority contained in Sections 4(i), 303(f), 303(g), and 303(r) of the Communications Act, as amended.

Regulatory Flexibility Act

107. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) may apply to this rulemaking proceeding. Accordingly, notice is given that the actions taken in this rule-making proceeding may have a significant impact on small business entities by making additional frequencies available for their communications needs. All such business concerns are thus encouraged to participate, and the Commission will entertain suggestions from businesses in this class as to how their views can best be presented for consideration.

108. In this proceeding the Federal Communications Commission is proposing to release additional 800 MHz band frequency spectrum, now held in reserve, which will be used by private land mobile radio systems, and to promulgate rules intended to increase the efficiency of use of this reserve spectrum as compared with other 800 MHz band spectrum previously released for use by private land mobile radio systems. The Commission is considering this action because existing 800 MHz band spectrum for these systems has been or shortly will be exhausted in the largest urban areas and demand for this spectrum continues. The Commission has authority, pursuant to pertinent provisions of the Communications Act of 1934, as amended, to release for public use 800 MHz spectrum now held in reserve and to promulgate new and revised rules for the use of that spectrum.

109. Most 800 MHz band conventional and trunked private land mobile radio systems serve the communications needs and requirements of small entities, which employ from one to ninety mobile radio units. The entrepreneurs who provide mobile relay service to the end users are themselves engaged in small businesses. These end users and entrepreneurs providing shared mobile relay service fall within the purview of the Regulatory Flexibility Act. It is estimated that there are now a few thousand radio systems of this type in the United States. These proposals, if adopted, will have a beneficial impact upon these small businessmen located in those areas where available 800 MHz band spectrum has been or will be fully assigned because it will make available radio frequencies for the use these businessmen, including the entrepreneurs who provide shared mobile relay facilities to those small business users who cannot or do not wish to constuct and operate mobile relay systems solely for their own use. Because land mobile radio communications can be an essential component of certain types of small business operations, a demonstrable benefit to small business users of radio communication should result. There are no other existing Commission rules that would overlap these provisions, nor are there any significant alternatives to the release of new spectrum—and rules for its more efficient use—which the Commission might pursue with respect to the 800 MHz band.

110. It is not anticipated that the rules proposed herein would have any adverse impact upon small business users *except* that frequencies in the original allotment, if not fully loaded within certain time periods set forth in these proposed revisions to the Commission's rules, would thereafter be subjected to the more stringent loading standards applicable to the new group of frequencies that is here proposed to be released. Furthermore, present rules governing these radio systems require licensees to notify the Commission at the conclusion of the times prescribed in the rules for completing construction of these systems that the systems have been built and the number of mobile radio units being used thereon. It is also not anticipated that the rules proposed herein would change this record keeping requirement in any way. The reporting requirement, a one-time obligation in the vast majority of cases and at most a three-time obligation, would be at most a one-time obligation on the frequencies here proposed to be released. The reporting requirement can be completed in a few minutes, requires no special skills to accomplish, and consists solely of advising the Commission that a radio system has been built and the number of radios being used therewith.

111. To the extent indicated, the Petitions for Reconsideration submitted in PR Docket 79-191 by the Utilities Telecommunications Council, the Central Committee on Telecommunications of the American Petroleum Institute, and the Special Industrial Radio Service Association, Inc. are granted. In all other respects they are denied.

112. To the extent indicated, the Report and Order, Docket 79-191, FCC 80-663, 45 FR 81204 (December 10, 1980) is amended.

113. To the extent indicated, the Petition for Rule Making, RM-3691, submitted by Advanced Mobile Radiotelephone Services, Inc. is granted. In all other respects, it is denied.

114. It is further ordered, That the Secretary shall cause a copy of this proposal to be published in the **Federal Register.**

115. It is further ordered, That the Secretary shall cause a copy of this

Notice of Proposed Rule Making to be served upon the Chief Counsel for Advocacy of the Small Business Administration.

116. For further information concerning this document, contact Eugene Thomson, or Lewis Goldman, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, Telephone (202) 632-6497.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—*Summary of LMCC Proposal for Policies Governing the Assignment and Use of Remaining Channels in the 806–821 and 851–866 MHz Bands Currently Held in Reserve*

1. As an alternative to either a continuation of the existing assignment and use policy for 800 MHz conventional or trunked systems or the Commission Staff's proposal in this Docket, the Land Mobile Communications Council (LMCC) recommends the following policy be adopted in this proceeding for the remaining channels being held in reserve in the 806–821 and 851–866 MHz bands:

a. In order to facilitate the most efficient spectrum management and to enable fundamentally different land Mobile Radio Services to make maximum use of the spectrum, the remaining channels would be grouped into four separate, but flexible, categories as follows:

- Commercial Users—to include both SMRs and common carriers—70 channels.
- Business Users—to include community repeater systems but not SMRs—60 channels.
- Public Safety Users—60 channels, (includes 50 channels from PR Docket No. 79–191).
- Industrial and Land Transportation Users—60 channels.

b. Trunked and conventional systems would be permitted in each category, at the choice of the licensee.

c. To provide a basis for better spectrum management and improved initial frequency selection the provisions of § 90.175 of the rules would be applicable to the channels in each of the four categories. This will permit applicants either to take advantage of the services of frequency coordination groups representative of the users in each category and acting in an advisory capacity to the applicants, as provided for in § 90.175(a)(2) of the rules, or to make their own frequency selection based upon their own field studies, as provided for in § 90.175(a)(1) of the rules. While the Commission would be relieved of the initial frequency selection as a result of this reliance on the users and the private sector, it would continue to maintain exclusive licensing authority over all applicants. Also, the Commission would establish, through rule making, the criteria for these frequency coordination groups to apply in their frequency coordination efforts at 800 MHz, and would continue to monitor their performance.

d. Through LMCC channels, one current master data base would be available to all users, to the Commission and to each frequency coordination committee. However, such groups may also retain their own data base if they do desire.

e. Through rule making, users in each category would be free to establish their own loading, engineering, operating and interference criteria which would then be followed by the frequency coordination group for each category and applicants.

f. As to the Commercial user category:

(1) Commercial users would operate under common interference and reliability engineering standards (not fixed mileage limitations). These standards would, in effect, provide Commercial users with exclusive assignments.

(2) Requests for up to 20 channels may be made initially. All initial period applicants, if requests exceed available channels, would have channels divided among them on an equitable basis. After the initial period, applicants can pool spectrum for joint ventures so that marketplace forces will determine the ultimate efficient spectrum configurations.

(3) In order to avoid license speculation, there will be a one-year construction requirement and an initial three-year license term during which a reasonable loading level must be achieved. In other respects, and in other markets, a part 94 licensing approach would be used in the Commercial block.

(4) LMCC recommends the inclusion of common carriers in the Commercial category and the removal of the limitations on the number of SMRs that manufacturers can operate. The inclusion of common carriers is recommended because, apart from the Cellular Service, users should have a further choice in the 800 MHz band of a common carrier-type service, either conventional or trunked. Removal of the existing limitations on manufacturers operating SMRs is in line with the Commission's intent to eliminate artificial barriers to entry. These recommendations are made consistent with the desire of the Commission to provide *ultimate users* with as many options as possible.

g. As to the Business, Public Safety and Industrial/Land Transportation user categories:

(1) All licensees would have non-exclusive assignments as is presently the case with private land mobile channels below 470 MHz. Making exclusive assignments to Business, Public Safety and Industrial/Land Transportation users serves little useful purpose, restricts greater use of channels and creates serious legal and procedural problems.

(2) With regard to all three non-Commercial categories, a frequency registration and extended construction procedure would be established for those licensees which need considerable lead time in planning and budgeting for systems ("slow-growth" users) and for those cases where there are large systems or systems covering extensive areas which have to be constructed and implemented in stages extending beyond one year.

(3) By having non-exclusive assignments in the three non-Commercial categories and by establishing engineering, operating and interference criteria for each category in the Rules, the frequency coordinating committees for each of those categories (or individual applicants) will be free to engineer-in additional systems which would not be possible under either an exclusive assignment concept or by using rigid mileage separation standards.

h. The initial number of channels in each of the four categories would remain the same for at least five years. During this period there will be, pursuant to rule making, inter-category sharing at the local level by mutual agreement of the frequency coordinating groups. Where a user from one category is permitted to use channels in another category, the user involved will be required to comply with the loading, engineering, interference and operating criteria applicable to the category in which it will now operate. At the end of the five-year period, if needed, the Commission can examine the utilization of channels by users in the various categories and make appropriate adjustments in the boundaries. The ability of the Commission to change category boundaries should be a very strong incentive for all users to make maximum efficient use of the spectrum and to seek out the use of new technologies which would enhance spectrum utilization.

2. The LMCC proposal calls for use of limited and flexible blocks, frequency coordination based upon user-developed engineering, operating and interference criteria and frequency sharing. The assignment and use policies adopted in Docket No. 18262, such as abandonment of block allocations and the decision not to use coordinating committees to assist applicants in frequency selection, the establishment of rigid mileage limitations and loading standards, have resulted in inefficiencies and should not only be revisited but changed.

3. The LMCC proposal lets the user decide whether to operate a trunked or a conventional system. The policy adopted in PR Docket No. 79–106 of restricting additional conventional systems in order to promote trunked systems has been a failure, has resulted in large amounts of "assigned" trunked spectrum being unused due to apparent "spectrum speculation" by existing SMR licensees and has left legitimate user needs unmet. This policy error must not be extended to the remaining channels. The construction and mobile unit loading requirements and initial three-year license term applicable to licensees in the Commercial user category will discourage such "spectrum speculation." The Commission should promptly take steps to rectify this policy error as to the 200 trunked channels already released.

4. LMCC's proposal is more spectrum-efficient than either the present 800 MHz assignment policy or the Staff's proposal. The flexible block, frequency coordination, frequency registration/extended construction and inter-category sharing provisions of LMCC's proposal all enhanced by a data base, will result in greater spectrum utilization with minimum degradation of service than is possible with rigid mileage separations, first-come, first-served assignments and vertical stacking.

5. The provision in LMCC's proposal to utilize private frequency coordinating committees representative of users in each category pursuant to the provisions of § 90.175(a)(2) of the Rules is not an unlawful delegation of authority since these committees do not exercise any authority or control. Rather, they merely perform ministerial functions of applying criteria in the Rules to a commonly available data base. Since these committees make recommendations to applicants upon request and do not advise the Commission they are not "Advisory Committees" under the Federal Advisory Committee Act. These committees do not operate in restraint of trade since membership is not restricted, there is equal access to their services by both members and non-members, and all frequency recommendations are necessarily based upon objective standards codified in the Commission's regulations and applied equally to members and non-members. Furthermore, their operations are subject to pervasive regulatory scrutiny. In fact, these committees promote competition by enabling all users, large and small, to find the best channels for their operations on an equal basis.

6. LMCC's proposal for assignment of frequencies in the Commercial user category, where there are more applicants than channels, meets the requirements of the Communications Act, employs marketplace forces to the degree practical and recognizes public interest considerations.

Appendix B—*List of Members—Land Mobile Communications Council*

American Association of State Highway & Transportation Officials (AASHTO)
American Automobile Associations (AAA)
American Petroleum Institute (API)
American Telephone and Telegraph Company (AT&T)
American Trucking Association, Inc. (ATA)
Association of American Railroad (AAR)
Associated Public-Safety Communications Officers, Inc. (APCO)
Eastern States Public Safety Radio League (ESPRL)
Electronic Industries Association (EIA)
Forest Industries Telecommunications (FIT)
Forestry Conservation Communications Association (FCCA)
International Association of Fire Chiefs (IAFC)
International Association of Fish and Wildlife Agencies (IAFWA)
International Bridge, Tunnel & Turnpike Association, Inc. (IBT&TA.
International Municipal Signal Association (IMSA)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
National Association of Business & Educational Radio, Inc. (NABER)
National Association of State Foresters (NASF)
Special Industrial Radio Service Association, Inc. (SIRSA)
Telecator Network of America (TNA)
Utilities Telecommunications Council (UTC)

Appendix C—*National Mobile Radio Association, 1304 R Street NW., Washington, D.C. 20009*

Proposal for Release of 800 MHz Reserve-Pool Channels

The National Mobile Radio Association (NMRA) is a nationwide non-profit association of small businesses engaged in sales and maintenance of radio communications equipment and systems (NMRA was formerly known as the California Mobile Radio Association). NMRA members, in many cases, own and operate conventional and trunked Specialized Mobile Radio Systems (SMR) and community repeaters in the 800 MHz band. Many NMRA members wish to provide trunked SMR systems but are blocked by continued unavailability of frequencies in the major urban areas of Los Angeles, New York, Chicago, San Francisco, Houston and Ft. Worth/Dallas. NMRA is well positioned, therefore, to express the views of existing and potential 800 MHz licensees. NMRA members are persons who are in direct day to day contact, with present and prospective end-users of the frequencies assigned to the land mobile services and therefore NMRA is able to accurately express the needs of these end-users.

Summary of NMRA Proposal

Under the NMRA plan, the Commission would release the remaining 200 channels in the private user reserve pool on a "first-come, first served" basis, for trunked use only. In cities where applications are pending for more than 200 channels, as is presently true for Los Angeles, 180 channels should be released on the first come—first served basis, with the remaining 20 channels distributed in 5-channel blocks by means of either a lottery or "paper" hearing. A decision between lottery and paper hearing can only be made following review of public comments in the forthcoming Notice of Inquiry.

Appendix D—*Executive Summary*

The General Electric Company has submitted a plan for the FCC's consideration in any release of the reserve pool frequencies for private radio systems at 800 MHz. The GE plan would designate specific allocations of frequencies for trunked and conventional systems as in the original Docket No. 18262 decisions. Under this plan, users could choose between the two technologies, and the Commission would retain the authority to review the allocations when either block was fully licensed.

Specifically, the GE plan included three basic points:

First, any allocation made at this time for trunked and conventional systems should be in the same proportion as the original Docket 18262 allocations. This division would be the most direct and the least burdensome administrative approach to preserve user choices and the Commission's commitment to spectrum efficiency through trunking.

Second, the existing restriction on manufacturer ownership of 800 MHz systems should be equally applied to any new frequencies released. This rule reduces the influence of vertically integrated entities that are capable of manipulating prices and sales of equipment and access to transmitter sites so as to prevent the independent SMRs from reaping the returns on their investments through service to the land mobile community.

Third, no new allocations should be utilized for community repeater operations, as these operations can be used to circumvent the ban on manufacturer-owned systems. In contrast, the licensing of SMRs has given the Commission an identifiable entity whose primary livelihood is an FCC license to provide service. These entrepreneurs can be held accountable for use of 800 MHz frequencies with far more administrative efficiency than community repeaters and their operators.

Appendix E

It is proposed to amend Part 90 of the Commission's rules as follows:

1. In § 90.175 a new paragraph (f) is added to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(f) For frequencies between 809.750–816 MHz and 854.750–861 MHz.

(1) A report showing that the frequencies applied for are available for assignment in accordance with the applicable loading and separation standards as specified in Subpart M, or;

(2) A statement from a frequency coordinating committee recommending specific frequencies which are available for assignment in accordance with the loading standards and mileage separations as specified in Subpart M.

(3) Deviations from the station separation standards that may be required because of local conditions (terrain, antenna height, transmitter power, area of required coverage, etc.) will be considered and when requested, will require the submission of a letter of concurrence from all co-channel licensees closer than the mileage separation stated in the rules.

(4) In certain cases, eligibles in the Public Safety/Special Emergency Industrial/Land Transportation, Business, and SMR/Multiple Licensed Facilities categories may apply for frequency allocated to any category. Such applications must be accompanied by:

(i) A determination by the applicant's frequency advisory committee, or a demonstration by a field study, that there are no frequencies available within the applicant's own service category in the area of desired operation;

(ii) A demonstration that the frequencies requested in another service category are not assigned in that category in the ara desired operation;

(iii) A statement that the frequency coordinator(s) having responsibility for the coordination in the category in which the frequencies are assigned concur in its "our-of-category" assignment in the manner proposed, and it will not result in harmful interference to existing or planned systems in the category in which the frequency is assigned;

(iv) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the category or services in which the frequency is assigned.

2. In § 90.207, a new paragraph (l) is added to read as follows:

§ 90.207 Types of emission.

* * * * *

(l) Stations authorized frequencies in the 809.750–816/854.750–861 MHz band that are for exclusive use by a single licensee, for Specialized Mobile Radio system operations as described in Section 90.355, or multiple licensed facilities that have the written concurrence of all users, may employ any mode of emission desired. Multiple emissions within the authorized bandwidth will be allowed. Out-of-band emissions shall be in conformance with § 90.209. When multiple emissions are utilized, the sum of the emissions may not exceed the effective radiated power limits of Section 90.379.

3. In § 90.209, a new paragraph (b)(7) is added to read as follows:

§ 90.209 Bandwidth limitations.

* * * * *

(b) * * *

(7) Stations described in § 90.207(l) which are authorized frequencies in the 809.750–816/854.750–861 MHz bands will be authorized a bandwidth of 25 kHz. For these stations, consideration will be given, upon justification, to authorize more than one 25 kHz channel for systems requiring more than 25 kHz bandwidth.

* * * * *

4. In § 90.213(a), footnote 14 is added to the 806–821 and 851–866 MHz frequency ranges in the Frequency Tolerance Table to read as follows:

§ 90.213 Frequency tolerance.

(a) * * *

806–821 [14]					
851–866 [14]					

* * * * *

[14] No tolerance shall be specified for frequencies in the 809.750–816/854.750–861 MHz band that are assigned for exclusive use of those licensees authorized under § 90.207(l). The out-of-band emission limitations of § 90.209 shall be met.

* * * * *

5. In § 90.359, paragraph (c) is revised and a new paragraph (e) is added to read as follows:

§ 90.359 Supplemental information to be furnished by applicants for facilities under this subpart.

* * * * *

(c) All applicants for trunked systems shall specify the number of mobile units to be placed in operation within the terms of the license: *Provided, however,* Where an applicant for trunked facilities in the frequency bands 816–821/861–866 MHz applies for more than the minimum 5 channels, and elects to construct in 5-channel stages, he shall so specify and shall state the number of mobile units to be placed in operation by the end of two years from the date of the grant of his station authorization.

* * * * *

(e) Frequencies in the 809.750–816/854.750–861 MHz band are subject to the frequency coordinated requirements of § 90.175(f).

6. In § 90.365, paragraphs (a), (a)(1), and (a)(3) are revised, and new paragraphs (i) and (j) are added to read as follows:

§ 90.365 Selection and assignment of frequencies.

(a) The Commission will select and assign frequencies for conventional system operation in the 806–809–750/851–854.750 MHz bands and for trunked systems operating in the 816–821/861–866 MHz bands.

(1) For trunked systems, the assignment of frequencies will be made in accordance with applicable loading criteria and in accordance with the following:

* * * * *

(3) For conventional systems, mobile station transmitting frequencies, as well as those for use by control stations, will be selected from those allocated in the 806–821 MHz band. Mobile and control station transmitting frequencies will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz and proceed to the band end with uniform 25 KHz channeling. Base station transmitting frequencies will be selected and assigned from those allocated in the 851–866 MHz band, with Channel No. 1 commencing at 851.0125 MHz, followed by Channel No. 2 at 851.0375 MHz, and proceed to the band end with uniform 25 KHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

* * * * *

(i) This paragraph not used.

(j) Applicants will select and request frequencies in the 809.750–816/854.750–861 MHz bands.

(1) The channels in this band consist of paired frequencies and shall be numbered 201–450. Mobile and control station frequencies will commence with Channel 201 at 815.9875 MHz, followed by Channel 202 at 815.9625 MHz and proceeding downward in frequency with uniform 25 KHz channeling to channel 450 at 809.7625 MHz. Base station transmitting frequencies are 45 MHz higher in frequency than the mobile transmitting frequency.

(2) The maximum number of channels that will be assigned at any one time will be five. All frequencies may be utilized for either conventional or trunked system use.

(i) Applicants for five channel trunked systems should select a five channel group in accordance with the tables given in §§ 90.365(j) and 90.366.

(ii) Applicants requesting less than a five channel trunked group shall request frequencies from any trunked group that is broken (less than 5 channels remaining). If these are unavailable, a 5 channel trunked group shall be broken.

(iii) Frequencies for conventional systems should be selected from broken 5 channel groups, if available.

(iv) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, the applicant may either be required to share a channel, or, if the applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, he may be licensed to use such channel or channels on an exclusive basis in his area of operation.

(3) Stations authorized by the Commission to operate in the 809.750–816/854.750–861 MHz bands will be afforded protection solely on the basis of the mileage separation criteria set out below. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(i) For trunked systems, the minimum separation between co-channel systems must be 112 km. (70 mi.) except that no trunked system shall be less than 168 km. (105 mi.) distant from co-channel wide areas trunked systems on any of the following mountain top sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

(ii) For urban-conventional systems, where the channel is assigned for exclusive use at a single site, co-channel base stations will be authorized only when the separation between that site and (*a*) the proposed other exclusive site is at least 112 km. (70 mi.) or (*b*) the other urban area is at least 136 km. (85 mi.). In all other cases the separation between centers of the urban areas involved must be at least 160 km. (100 mi.).

(iii) For suburban-conventional systems, where the channel is assigned for exclusive use at a single site, co-channel base station will be authorized only when the separation between that site and (*a*) the proposed other exclusive site is at least 96 km. (60 mi.) or (*b*) the proposed other suburban loading area is at least 136 km. (85 mi.). In all other cases the separation between centers of suburban loading areas will be at least 176 km. (110 mi.).

(iv) For a suburban-conventional system to operate co-channel with an urban-conventional system, where both the suburban and the urban conventional systems use the channel at single sites, the distance between those sites must be at least 112 km. (70 mi.). In all cases where the channel is used by either the suburban or urban-conventional system at multiple sites, the distance between the center of the urban area and the center of the suburban loading area must be at least 176 km. (110 mi.).

(v) The minimum distance from any of the following four sites: Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson (California) to the center of the nearest co-channel urban area and to the center of the nearest co-channel suburban loading area (for a suburban-conventional station) must, in all cases where both of the co-channel stations use the channel at single sites, be 168 km. (105 mi.).

In all cases where the channel is used by either of the co-channel stations at multiple sites, the minimum distance from any of these four sites to the center of the nearest co-channel urban must be 192 km. (120 mi.) and to the center of the nearest co-channel suburban loading area (for a suburban-conventional station), must be 208 km. (130 mi.).

(4) Notwithstanding the provisions of paragraph (j)(3)(ii) of this section, where an assigned channel of an urban-conventional system is not fully loaded in accordance with applicable loading criteria, and where the transmitter site of that system is located within 24 km. (15 mi.) from the center of the urbanized area involved, the Commission may issue additional authorizations for facilities to be located within 24 km. (15 mi.) of the center of that urbanized area until the channel in question is occupied in conformity with applicable loading criteria.

(5) Notwithstanding the provisions of paragraph (j)(3)(iii) of this section, where an assigned channel of a suburban-conventional system is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for facilities to be located within 40 km. (25 mi.) of the transmitter site of the first station authorized until the channel in question is occupied in conformity with applicable loading criteria.

(6) Notwithstanding the provisions of paragraph (j)(3)(v) of this section, where a channel is assigned for use at either Santiago Peak, Sierra Peak, Mount Lukens, or Mount Wilson (California) and the channel is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for wide-area-coverage facilities to be located at the same site area until the channel in question is occupied in conformity with applicable loading criteria. A channel previously assigned at one such site area may not be used at any of the three remaining designated mountain-top sites.

(7) UHF television translator stations using UHF output channels from Channel 70 through Channel 83, shall operate on a secondary basis to land mobile stations using the UHF bands allocated under this subpart for land mobile use, and, accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(8) Pending further negotiations with Canada and Mexico, land mobile stations operating in the 806–890 MHz band shall do so on a secondary basis to any Canadian or Mexican television station placed in operation on television channels in this band.

(9) The frequencies listed in Table 1 are available to eligible applicants in the Public Safety Category which consists of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Special Emergency Radio Services. These frequencies are available in areas farther than 200 miles from the US/Mexico border. They are not available within 145 miles of the US/Canada border. Applications for stations farther than 145 miles but less than 250 miles from the Canadian border must be coordinated under existing agreements.

Table 1.—*Public Safety Category, 60 Channels*

Group No.	Channel No.	Mobile	Base
201	201	815.9875	860.9875
	241	814.9875	859.9875
	281	813.9875	858.9875
	321	812.9875	857.9875
	361	811.9875	856.9875
202	202	815.9625	860.9625
	242	814.9625	859.9625
	282	813.9625	858.9625
	322	812.9625	857.9625
	362	811.9625	856.9625
203	203	815.9375	860.9375
	243	814.9375	859.9375
	283	813.9375	858.9375
	323	812.9375	857.9375
	363	811.9375	856.9375
211	211	815.7375	860.7375
	251	814.7375	859.7375
	291	813.7375	858.7375
	331	812.7375	857.7375
	371	811.7975	856.7375
212	212	815.7125	860.7125
	252	814.7125	859.7125
	292	813.7125	858.7125
	332	812.7125	857.7125
	372	811.7125	856.7125
213	213	815.6875	860.6875
	253	814.6875	859.6875
	293	813.6875	858.6875
	333	812.6875	857.6875
	373	811.6875	856.6875
221	221	815.4875	860.4875
	261	814.4875	859.4875
	301	813.4875	858.4875
	341	812.4875	857.4875
	381	811.4875	856.4875
222	222	815.4625	860.4625
	262	814.4625	859.4625
	302	813.4625	858.4625
	342	812.4625	857.4625
	382	811.4625	856.4625
231	231	815.2375	860.2375
	271	814.2375	859.2375
	311	813.2375	858.2375
	351	812.2375	857.2375
	391	811.2375	856.2375
232	232	815.2125	860.2125
	272	814.2125	859.2125
	312	813.2125	858.2125
	352	812.2125	857.2125
	392	811.2125	856.2125
	401	810.9875	855.9875
	402	810.9625	855.9625
	411	810.7375	855.7375
	412	810.7125	855.7125
	421	810.4875	855.4875
	422	810.4625	855.4625
	431	810.2375	855.2375
	432	810.2125	855.2125
	441	809.9875	854.9875
	442	809.9625	854.9625

(10) The frequencies listed in Table 2 are available to eligible applicants in the Industrial/Land Transportation Category which consists of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers and Telephone Maintenance Radio Services. These frequencies are available in areas farther than 200 miles from the U.S.-Mexico border. They are not available within 145 miles of the U.S./Canada border. Applications for stations farther than 145 miles but less than 250 miles from the Canadian border must be coordinated under existing agreements.

Table 2.—*Industrial/Land Transportation Category, 70 Channels*

Group No.	Channel No.	Mobile	Base
204	204	815.9125	860.9125
	244	814[0125	859.9125
	284	814.9125	859.9125
	2324	812.9125	857.9125
	364	811.9125	856.9125
205	205	815.8875	860.8875
	245	814.8875	859.8875
	285	813.8875	858.8875
	365	811.8875	856.8875
	325	811.8875	857.8875
214	815	.6625	860.6625
	254	814.6625	859.6625
	294	.6625	813859.6625
	334	812.6625	857.6625
	374	8116.625	856.6625
215	215	815.6375	860.6375
	255	814.6375	859.6375
	295	813.6375	858.6375
	335	812.6375	857.6375
	375	811.6375	856.6375
223	223	815.4375	860.4375
	263	814.4375	859.4375
	303	813.4375	858.4375
	343	812.4375	857.4375
	383	811.4375	856.4375
224	224	815.4125	860.4125
	264	814.4125	859.4125
	304	813.4125	858.4125
	344	812.4125	857.4125
	384	811.4125	856.4125
225	225	815.3875	860.3875
	265	814.3875	859.3875
	305	813.3875	858.3875
	345	812.3875	857.3875
	385	811.3675	856.3875
233	233	815.1875	860.1875
	273	814.1875	859.1875
	313	813.1875	858.1875
	353	812.1875	857.1875
	393	811.1875	856.1875
234	234	815.1625	860.1625
	274	814.1625	859.1625
	314	813.1625	858.1625
	354	812.1625	857.1625
	394	811.1625	856.1625
235	235	815.1375	860.1375
	275	814.1375	859.1375
	315	813.1375	858.1375
	355	812.1375	857.1375
	395	811.1375	857.1375
	403	810.9375	855.9375
	404	810.9125	855.9125
	405	810.8875	855.8875
	406	810.8625	855.8625
	407	810.8375	855.8375
	413	810.6875	855.6875
	414	810.6625	855.6625
	415	810.6375	855.6375
	416	810.6125	855.6125
	417	810.5875	855.5875
	423	810.4375	855.4375
	424	810.4125	855.4125
	425	810.3875	855.3875
	426	810.3625	855.3625
	427	810.3375	855.3375
	433	810.1875	855.1875
	434	810.1625	855.1625
	435	810.1375	855.1375
	436	810.1125	855.1125
	437	810.0875	855.0875

(11) The frequencies listed in Table 3 are available to eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.355(c) or multiple licensed facilities (e.g. community repeaters). These frequencies are available in areas farther than 200 miles from the US/Mexico border. They are not available within 145 miles of the US/Canada border. Applications for stations farther than 145 miles but less than 250 miles from the Canadian border must be coordinated under existing agreements.

Table 3.—*Business Radio Category, 50 Channels*

Group No.	Channel No.	Mobile	Base
209	209	815.7875	860.7875
	249	814.7875	859.7875
	289	813.7875	858.7875
	329	812.7875	857.7875
	369	811.7875	856.7875
210	210	815.7625	860.7625
	250	814.7625	859.7625
	290	813.7625	858.7625
	330	812.7625	857.7625
	370	811.7625	856.7625
219	219	815.5375	860.5375
	259	814.5375	859.5375
	299	813.5375	858.5375
	339	812.5375	857.5375
	379	811.5375	856.5375
220	220	815.5125	860.5125
	260	814.5125	859.5125
	300	813.5125	858.5125
	340	812.5125	857.5125
	380	811.5125	856.5125
229	229	815.2875	860.2875
	269	814.2875	859.2875
	309	813.2875	858.2875
	349	812.2875	857.2875
	389	811.2875	856.2875
230	230	815.2625	860.2625
	270	814.2625	859.2625
	310	813.2625	858.2625
	350	812.2625	857.2625
	390	811.2625	856.2625
238	238	815.0625	860.0625
	278	814.0625	859.0625
	318	813.0625	858.0625
	358	812.0625	857.0625
	398	811.0625	856.0625
239	239	815.0375	860.0375
	279	814.0375	859.0375
	319	813.0375	858.0375
	359	812.0375	857.0375
	399	811.0375	856.0375
240	240	815.0125	860.0125
	280	814.0125	859.0125
	320	813.0125	858.0125
	360	812.0125	857.0125
	400	811.0125	856.0125
	446	809.8625	854.8625
	447	809.8375	854.8375
	448	809.8125	854.8125
	449	809.7875	854.7875
	450	809.8623	854.8625

(12) The frequencies listed in Table 4 are available only for Specialized Mobile Radio Systems (SMRS) eligible under § 90.255(c) and multiple licensed facilities (e.g. community repeaters). These frequencies are available in areas farther than 200 miles from the U.S./Mexico border. They are not available within 145 miles of the U.S./Canada border. Applicants for stations farther than 145 miles, but less than 250 miles from the Canadian border must be coordinated under existing agreements.

Table 4.—*Special Mobile Radio Systems/Multiple Licensed Facilities, 70 Channels*

Group No.	Channel No.	Mobile	Base
206	206	815.8625	860.8625
	246	814.8625	859.8625
	286	813.8625	858.8625
	326	812.8625	857.8625
	366	811.8625	856.8625
207	207	815.8375	860.8375
	247	814.8375	859.8375
	287	813.8375	858.8375
	327	812.8375	857.8375
	267	811.8375	856.8375
208	208	815.8125	860.8125
	248	814.8125	859.8125
	288	813.8125	858.8125
	328	812.8125	857.8125
	368	811.8125	856.8125
216	216	815.6125	860.6125
	256	814.6125	859.6125
	296	813.6125	858.6125
	336	812.6125	857.6125
	376	811.6125	856.6125
217	217	815.5875	860.5875
	257	814.5875	859.5875
	297	813.5875	858.5875
	337	812.5875	857.5875
	377	811.5875	856.5875
218	218	815.5625	860.5625
	258	814.5625	859.5625
	298	813.5625	858.5625
	338	812.5625	857.5625
	378	811.5625	856.5625
226	226	815.3625	860.3625
	266	814.3625	859.3625
	306	813.3625	858.3625
	346	812.3625	857.3625
	386	811.3625	856.3625
227	227	815.3375	860.3375
	267	814.3375	859.3375
	307	813.3375	858.3375
	347	812.3375	857.3375
	389	811.3375	856.3375
228	228	815.3125	860.3125
	268	814.3125	859.3125
	308	813.3125	858.3125
	348	812.3125	857.3125
	388	811.3125	856.3125
236	236	815.1125	860.1125
	276	814.1125	859.1125
	316	813.1125	858.1125
	356	812.1125	857.1125
	396	811.1125	856.1125
237	237	815.0875	860.0875
	277	814.0875	859.0875
	317	813.0875	858.0875
	357	812.0875	857.0875
	397	811.0875	856.0875
	408	810.8125	855.8125
	409	810.7875	855.7875
	410	810.7625	855.7625
	418	810.5625	855.5625
	419	810.5375	855.5375
	420	810.5125	855.5125
	428	810.3125	855.3125
	429	810.2875	855.2875
	430	810.2625	855.2625
	438	810.0625	855.0625
	439	810.0375	855.0375
	440	810.0125	855.0125
	443	809.9375	854.9375
	444	809.9125	854.9125
	445	809.8875	854.8875

7. A new § 90.366 is added to read as follows:

§ 90.366 Use of the frequency bands 809.750–816/854.750–861 MHz in the Southern California area.

(a) The frequencies listed in Table 5 are the only frequencies available for assignment in San Diego County, California for eligible applicants in the Public Safety Category consisting of the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, and Special Emergency Radio Services.

Table 5—Public Safety Category (San Diego County) 25 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(b) The frequencies listed in Table 6 are the only frequencies available for assignment in San Diego County, California for eligible applicants in the Industrial/Land Transportation Category consisting of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, and Telephone Maintenance Radio Services.

Table 6—Industrial/Land Transportation Category (San Diego County) 25 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(c) The frequencies listed in Table 7 are the only frequencies available for assignment in San Diego County, California for eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.355(c) and multiple licensed facilities (e.g. community repeaters).

Table 7—Business Radio Category (San Diego County) 20 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(d) The frequencies listed in Table 8 are the only frequencies available for assignment in San Diego County, California for Specialized Mobile Radio Systems (SMRS) eligible under § 90.355(c) and multiple licensed facilities (e.g. community repeaters).

Table 8—Specialized Mobile Radio Systems/Multiple Licensed Facilities (San Diego County) 30 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(e) The frequencies listed in Table 9 are available for assignment in areas farther than 70 miles but less than 200 miles from the US/Mexico border for eligible applicants in the Public Safety Category consisting of the Local Government, Police, Fire, High Maintenance, Forestry-Conservation, and Special Emergency Radio Services.

Table 9—Public Safety Category (70–200 miles from US/Mexico Border) 35 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(f) The frequencies listed in Table 10 are available for assignment in areas farther than 70 miles but less than 200 miles from the US/Mexico border for eligible applicants in the Industrial/Land Transportation Category, consisting of the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Manufacturers, and Telephone Maintenance Radio Services.

Table 10—Industrial/Land Transportation Category (70–200 miles from US/Mexico border) 45 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(g) The frequencies listed in Table 11 are available for assignment in areas farther than 70 miles but less than 200 miles from the US/Mexico border for eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.355(c) or multiple licensed facilities (e.g. community repeaters).

Table 11—Business Radio Category (70 to 200 miles from US/Mexico border) 30 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

(h) The frequencies listed in Table 12 are available for assignment in areas farther than 70 miles but less than 200 miles from the US/Mexico border for Specialized Mobile Radio Systems (SMRS) eligible under § 90.355(c) and multiple licensed facilities (e.g. community repeaters).

Table 12—Specialized Mobile Radio Systems/Multiple Licensed Facilities (70–200 miles from US/Mexico border) 40 channels

(Frequencies will be published after signing of agreement with the Mexican government.)

8. In § 90.367, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 90.367 Limitation on the number of frequencies assignable for conventional systems.

(a) Except as indicated in paragraph (d) of this section, the maximum number of frequency pairs that may be assigned to any one licensee for the operation of a conventional radio system shall be two (2). Conventional systems requiring a third frequency will be required to convert to trunked operations.

* * * * *

(d) For licensees utilizing frequencies in the 809.750–816/854.750–861 MHz band, more than 2 frequency pairs may be assigned for the operation of a conventional radio system upon showing that more than 2 frequency pairs are required and that trunking is not feasible for the proposed operation.

9. In § 90.369, paragraph (a) is revised to read as follows:

§ 90.369 Other criteria to be applied in assigning channels for use in conventional systems of communications.

(a) In every case, the Commission will examine a proposal to determine the requirements of the applicant in terms of the number of mobile units to be served, together with the nature of the activites the applicant is engaged in. Where an applicant for facilities in the 806–809.750/851–854.750 MHz bands shows that the channel will be loaded to 70 percent of its assigned capacity, or where an applicant for facilities in the 809.750–816/854.750–861 MHz bands whose base station(s) would be located within 75 miles of the designated centers of the largest 25 urbanized areas, as specified in § 90.477, shows that the channel will be loaded to 90 percent of its assigned capacity, as those capacities are defined in § 90.377, then that channel will be made available to that applicant for its exclusive use in the area in which it proposes to operate. Where the showing made justifies the assignment of more than one channel to the applicant, then additional frequencies will be made available for its use.

* * * * *

10. In § 90.371, paragraph (a) is revised to read as follows:

§ 90.371 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

(a) The maximum number of frequency pairs that may be assigned for use by a trunked radio system operating in the 816–821/861–866 MHz bands shall be twenty. The minimum number of frequency pairs that may be assigned for such a system shall be five. A trunked radio system operating in the 809.750–816/854.750–861 MHz bands may be assigned a minimum of three and a maximum of five channels.

* * * * *

11. Section 90.373 is revised to read as follows:

§ 90.373 Restriction on licensing manufacturers in the 806–821 and 851–866 MHz bands.

Persons engaged in the manufacture of radio frequency (FR) equipment to be used in systems authorized under this subpart, or any person directly or indirectly controlled (through stock

ownership or otherwise) by such manufacturing entity, be licensed to operate only one trunked system of communications when utilizing frequencies in the bands 816–821/861–866 MHz, or one trunked system per market area as defined by the 40 dBu contour when employing frequencies in the 809.750–816/854.750–861 MHz bands. These systems shall be utilized to provide base station and ancillary facilities to eligibles under Subpart B, C, D or E of this part.

12. In § 90.375, paragraphs (c) and (e) are revised to read as follows:

§ 90.375 Trunked system loading requirements.

* * * * *

(c) (1) Applicants for trunked systems to operate in the 816–821/861–866 MHz frequency band, and applicants for trunked systems located beyond 120 km. (75 miles) of the largest 25 urbanized areas as set forth in § 90.477(c) that will operate in the 809.750–816/854.750–861 MHz frequency bands, shall certify that a minimum of 70 percent of the mobile units specified in its application will be placed in operation not later than the date on which the term of its license for the system expires; *Provided, however,* That where channels in the 816–821/861–866 MHz band have previously been assigned for single use or SMR trunked systems located within 120 km. (75 miles) of the largest 25 urbanized areas as set forth in § 90.477(c) but have subsequently been retrieved due to the licensee's failure to meet the loading standards for trunked facilities prescribed in this subpart, then those channels, if subsequently reassigned, shall be subject to paragraphs (c)(2) and (e)(2) of this section; *Provided, further,* that where channels in the 816–821/861–866 MHz band have previously been assigned for a trunked SMR system located within 120 km. (75 miles) of the largest 25 urbanized areas as set forth in § 90.477(c) and that trunked SMR facilities has not, at the time of the expiration of its initial license term, met the maximum loading standards for trunked systems prescribed in this subpart, then, at time of renewal of the license, the SMR facility shall be subject ot the provisions of paragraphs (c)(2) and (e)(2) of this section.

(2) Each applicant for trunked facilities located within 120 km. (75 miles) of the top 25 urbanized areas as set forth in § 90.477(c) and which will operate in the 809.750–816/854.750–861 MHz frequency band shall certify that a minimum of 90% of the mobile units specified in its application will be placed in operation not later than two years after the date of issuance of the first authorization for the system. At the conclusion of the two-year loading period, where the requisite minimum level of loading specified herein has not been achieved, the station authorization will modified to cancel the authorization for those channels not so loaded.

* * * * *

(e) (1) Licensees of trunked facilities on frequencies in the 816–821/861–866 MHz frequency band must commence construction within six months from the date of grant and complete construction within one year; *Provided, however,* That a licensee of a trunked facility assigned more than the minimum five-channel group may elect to construct the facility in stages. In this event, the licensee shall complete construction of the basic five-channel group of the authorized facility within the time limits specified above; *Provided, further,* That should the licensee elect to proceed in this manner, then he must demonstrate that at the end of a two-year period from the date of the grant of his station authorization, the constructed facility is occupied to a minimum of 70 percent of the loading require, notwithstanding the provisions of paragraph (c) of this section.

(2) Licensees of trunked facilities which will operate in the 809.750–816/854.750–861 MHz frequency band must also commence construction within six months from the date of grant and complete construction within one year; *Provided, however,* That trunked systems will not be authorized in excess of five channels where the stations will be located within 120 km. (75 mi.) of the largest 25 urbanized areas as set forth in § 90.477(c).

13. In § 90.377, paragraph (c) is revised and a new paragraph (f) is added to read as follows:

§ 90.377 Conventional systems loading requirements.

* * * * *

(c) (1) Every applicant for conventional facilities in the frequency band 806–809.750/851–750 MHz shall certify that a minimum of 70 percent of the mobile units specified in his application will be placed in operation not later than 8 months after the date of grant of its license for the system; *Provided, however,* That where a channel in the 806–809.750/851–864.750 MHz band has previously been assigned for a single user, multiple user, or SMR conventional system located within 120 km. (75 miles) of the largest 25 urbanized areas as set forth in § 90.477(c) but has subsequently been retrieved due to the failure of the licenee(s) to meet the loading standards for conventional facilities prescribed in this subpart, then that channel if subsequently reassigned, shall be subject to paragraph (c)(2) of this section; *Provided, further,* That where a channel in the 806–809.750/851–864.750 MHz band has previously been assigned for a conventional SMR system located within 120 km. (75 miles) of the largest 25 urbanized areas as set forth in § 90.477(c) and that conventional SMR facility has not, at the time of expiration of its initial license term, met the maximum loading standards for conventional systems prescribed in this subpart, then as a term of renewal of the license the SMR facility shall be subject to the provisions of paragraph (c)(2) of this section.

(2) Every applicant for conventional facilities utilizing frequencies in the 809.750–816/854.750–861 MHz band that will be located within 75 miles of the top 25 urbanized areas as specified in § 90.477(c) shall certify that a minimum of 90 percent of the mobile units specified in his application will be placed in operation not later than 8 months after date of grant of its license for the system. Applicants whose facilities utilizing these frequencies are located farther than 75 miles from the top 25 urbanized areas will have 2 years from authorization of the facilities to achieve the 90% loading level.

* * * * *

Table 1.—*Loading Requirements for Conventional Systems*

* * * * *	
Police and fire group	70/140
Business radio group	110/220
* * * * *	
Other services group[3]	90/180

* * * * *

(f) Specialized Mobile Relay facilities and single user systems, wherever located, may exceed the channel loading maximums specified in the Tables in this section freely without consent of any other party. Other shared mobile relay facilities may exceed these channel loading maximums only upon consent of all sharing users.

* * * * *

14. In § 90.385, a new paragraph (d) is added to read as follows:

§ 90.385 Restrictions and limitations on permissible communications on use, and on mode of operation.

* * * * *

(d) Systems operating in the frequency bands 809–750.816/855–750.861 MHz that have been authorized for exclusive use of a licensee because of loading standards having been met, systems

authorized for Specialized Mobile Radio System operations under § 90.355(c), and shared systems that have the expressed agreement of all users, will be permitted to employ any emission mode, provided that the emissions are contained within the channel bandwidth. The authorized bandwidth will be 25 kHz with the center of the bandwidth being the assigned channel frequency. This bandwidth may be subdivided into individual narrow band channels if desired. If more than a single emission is used within a 25 kHz channel, the sum of the emissions shall not exceed the effective radiated power limits specified in § 90.379. Out of band emissions shall conform to those indicated in § 90.209.

[FR Doc. 81-21632 Filed 7-22-81; 8:45 am]
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47 CFR Part 90

[Docket No. 79-191, 79-334, RM-3691]

Allocation of the Remaining Frequencies in Certain Private Land Mobile Frequency Bands

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: On January 3, 1980, a notice of Proposed Rule Making, PR Docket 79-334, was released concerning rules to be applied to wide-area, regional, and ribbon type 800 MHz land mobile radio systems. Many of the comments received cross-referenced comments filed in PR Docket 79-191 and since the issues in both Dockets are interrelated in this Order, we are consolidating PR Docket 79-334 into PR Docket 79-191.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson or Lewis Goldman, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: June 16, 1981.

Released: July 14, 1981.

By the Commission:

In the Matter of Amendment of Part 90 of the Commission's Rules to Designate Frequencies in the 806-821 and 851-866 MHz bands for Slow-Growth Land Mobile Radio Systems of Utilities and Public Safety Agencies; PR Docket No. 79-191 RM-3380. Amendment of Part 90 of the Commission's Rules to Allocate Frequencies in the 806-821 and 851-866 MHz bands for Public Safety/Special Emergency, Industrial/Land Transportation, Business Radio Service and SMRS/CR Frequency Pools. Amendment of Part 90 of the Commission's Rules to Facilitate Authorization of Wide-Area Mobile Radio Communications Systems on Frequencies Allocated for Trunked Systems; PR Docket No. 79-334. Amendment of Part 90 of the Commission's Rules to Allocate Additional Frequencies from the 800 MHz Spectrum Reserve to Loaded Specialized Mobile Radio-Trunked Systems in Markets Having All Presently-Allocated SMR-Trunked Frequencies Assigned; RM-3691.

1. On January 3, 1980, we released a Notice of Proposed Rule Making to explore what rules should be applied to the operation of wide area and ribbon configuration systems in the 806-821 and 851-866 MHz bands. Notice of Proposed Rule Making, Docket No. 79-334, FCC 79-855, adopted December 19, 1978, released January 3, 1980, published in the **Federal Register** on January 10, 1980 (45 FR 2067).

2. Seventeen parties submitted comments and replies in our Notice. Several cross referenced the comments which had been filed in our proceeding in Docket No. 79-191.

3. After careful examination of the comments in this proceeding, we conclude the public interest would best be served by consolidating the proceedings in Docket No. 79-334 and Docket No. 79-191. The issues are interrelated and should be addressed comprehensively.

4. Accordingly, it is ordered That the proceeding in Docket No. 79-334 is consolidated into Docket No. 79-191 and will henceforth be addressed under the latter docketed proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-21631 Filed 7-22-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Program Administration

49 CFR Parts 172 and 174

[Docket HM-180 Advance Notice]

Placarding of Empty Tank Cars

AGENCY: Materials Transportation Bureau (MTB) Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The MTB is publishing this Advance notice of proposed rulemaking to request comments on a petition for rulemaking submitted by the International Association of Fire Chiefs for removal of requirements for display of EMPTY placards on tank cars. The petition is quoted for comment.

DATE: Comments must be received by October 20, 1981.

ADDRESS: Comments must be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. Office hours are 8:30 a.m. to 5:00 p.m., Monday thru Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: Lee E. Metcalfe, Regulations Development Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590, (202) 426-0656.

SUPPLEMENTARY INFORMATION: MTB requests comments from interested persons concerning a petition to eliminate the requirement for display of EMPTY placards on tank cars. The petition is quoted as follows:

Petition for Rulemaking

Pursuant to the procedures specified in Part 106 of your regulations, the International Association of Fire Chiefs (IAFC) hereby petitions for removal of all references to EMPTY placards set forth in Title 49, Code of Federal Regulations, Parts 172 and 174.

Your regulations presently require that an EMPTY placard be displayed on a tank car that has been emptied but not cleaned and purged of all hazardous residues. This means that a significant quantity of a hazardous material may remain in a tank car while the placards displayed on the car indicated that it is empty. An EMPTY placard (or sign) may be useful to emergency personnel in making assessments in how to deal with accidents if the tank car bearing such a message is truly empty (cleaned and purged). However, THE PRESENT SYSTEM IS MISLEADING AND DANGEROUS and should be terminated.

We believe that many qualified experts will agree that, in many instances, a nearly empty tank car presents a potentially greater danger than a filled car. If the Federal Railroad Administration were to conduct a full-scale fire test on a 32,000-gallon propane car which is empty according to the law but full of propane vapor and possible a few gallons of liquefied propane, what would be the result? If a car similarly containing chlorine were breached in an accident, what would be the result? Keep in mind the cars just described would be placarded EMPTY during their transportation.

We recognize that placards are used by the railroad industry to comply with the car placement and other handling requirements of your regulations. However, we maintain that the system could be modified to accomplish those objectives and still provide

for proper communication of the risks presented by the hazardous material in tank cars. For example, the words on shipping papers now reading "EMPTY Last contained * * *" could be changed to read "NEAR EMPTY" in recognition of the need for brevity in the entries on shipping documents. Some other indication on the placard could also be developed which would not give the false impression that the EMPTY one does.

An additional argument is our contention that the placarding system should be consistent. Tank trucks must remain placarded when empty unless cleaned and purged of all hazardous material residue or reloaded with a nonhazardous material, while rail tank cars can use the EMPTY placard with residue and vapors present. It is difficult for us to have an effective and comprehensive training program for hundreds of thousands of firefighters when major inconsistencies, such as demonstrated in this petition, are permitted by your agency to exist.

Based on its evaluation of the comments received in response to this advance notice, MTB may issue a Notice of Proposed Rulemaking proposing to delete or modify the requirements for display of EMPTY placards.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and DOT implementing procedure (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et. seq.)

Issued in Washington, D.C. on July 14, 1981.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 81-21505 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-60-M

Federal Railroad Administration

49 CFR Part 212

[FRA Docket No. RSSP-3 Notice No. 2]

Revision to State Safety Participation Regulations; Correction

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a notice of proposed rulemaking to revise the FRA regulations on state participation in railroad safety inspections and investigations that appeared at page 32888 in the **Federal Register** of Thursday June 25, 1981 (46 FR 32888). The action is necessary to correct a typographical error in the preamble to the notice that appeared on page 32891.

DATES: (1) Written comments: Written comments must be received before August 14, 1981. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public hearing: A public hearing will be held at 10:00 a.m. on July 30, 1981. Any person who desires to make an oral statement should notify the Docket Clerk before July 24, 1981, by phone or by mail.

ADDRESSES: (1) Written comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours (8:30 a.m.–5:00 p.m.) in Room 8211 of the Nassif Building at the above address.

(2) Public hearing: A public hearing will be held in Room 4234 of the Nassif Building. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–426–8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Principal Program Person: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone 202–426–4345). Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590 (Phone: 202–426–8836).

SUPPLEMENTARY INFORMATION: The following correction is made in FR Doc. 81–18880 appearing on page 32888 of the June 25, 1981 issue of the **Federal Register:**

On page 32891 at the top of the third column, the text beginning with "Section 221.223, by contrast * * *" through "* * * to issue qualification requirements." is corrected to read as follows:

"Section 212.223 by contrast, would define the position of operating practices compliance inspector, whose duties would be limited to measuring particular conduct against uniform and objective requirements. While the compliance inspector would not be involved in the general evaluation of railroad operating rules programs, the compliance inspector would (a) observe operations to determine the extent of compliance with Blue Signal requirements and the Rear End Marking Device Regulations; (b) examine records and conduct interviews to determine the extent of compliance with the Accident/Incident Reporting Regulations; and (c) conduct investigations to develop facts relevant to compliance with the Hours of Service Act.

"Section 212.225 would prescribe entry qualifications for operating practices inspector apprentices.

"Section 212.227 would permit the Associate Administrator for Safety, FRA (Associate Administrator), to determine that a qualification requirement is not germane to the duties of a particular position. For instance, an individual seeking qualification as a signal and train control inspector in a state where there is no traffic control system in service should not have to demonstrate particularized knowledge of 49 CFR Part 236, Subpart D. Similarly, an operating practices inspector of a state that did not seek authority with respect to the Radio Rules should not be required to have specialized knowledge of those requirements.

"Section 212.229 would permit the state program to keep pace with regulatory change in the major areas of technical expertise by authorizing the Associate Administrator to issue qualification requirements."

Issued in Washington, D.C., on July 17, 1981.

John H. Broadley,

Chief Counsel.

[FR Doc. 81-21544 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 79-03; Notice 5]

Motor Vehicle Safety Standards; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Standard No. 121, *Air Brake Systems*, to delete the requirement for a separate reservoir capable of releasing parking brakes. This action is being taken as a result of a petition from the Berg Manufacturing Co. Berg suggested, and agency test data confirm, that other methods are available to release parking brakes that can be as effective as a reservoir. Accordingly, to promote innovation and

less costly compliance methods, the agency proposes to amend the standard in a way that will permit the manufacture of trailers with other parking brake release mechanisms. The agency also is proposing to change the parking and emergency brake sections of the standard at this time to simplify and clarify them.

DATES: Comment closing date August 24, 1981.

Proposed effective date: Upon publication of the Final Rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and be submitted to Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours: 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. John Machey, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2715).

SUPPLEMENTARY INFORMATION: On April 18, 1980, the Berg Manufacturing Company petitioned the agency to amend Standard No. 121, *Air Brake Systems*. The Berg proposal would have the agency amend S5.2.1.1 of the standard to allow the release of parking brakes by the use of tractor service air. Presently, the section requires that parking brakes be capable of being released by the air from a pressurized reservoir tank. The agency tentatively concludes that the Berg system would provide the same level of safety as the existing brake systems. Therefore, NHTSA is proposing an amendment to Standard No. 121 to permit the Berg and other innovative trailer parking brake release systems.

Paragraph S5.2.1.1 was included in Standard No. 121 to provide a means for releasing parking brakes once they have been applied. Without providing for such a release, parking brakes could be actuated and subsequently be incapable of being released owing to the nature of air brake systems. Since parking brakes are identical to emergency brakes on trailers, an inability to release brakes could create a safety problem. If emergency brakes on trailers were not capable of being released, a situation could result where a trailer would be blocking a road creating a safety hazard after performing an emergency braking maneuver. Previously, NHTSA had concluded that the best way to assure the release of parking brakes and emergency brakes was to require a pressurized reservoir tank. However, subsequent testing and analysis of existing systems lead the agency tentatively to conclude that this is not necessary to allow brakes to be released when necessary.

All existing brake systems in compliance with the air brake standard allow the release of the parking brakes with the pressurized tank. However, in order for that tank to operate, most systems require a signal to be sent to the tank. Typically, that signal comes from the tractor air supply. Accordingly, current systems require the use of tractor air to actuate the reservoir tank. The Berg petition and proposal correctly raise the question that if tractor service air is already required why is it not possible to allow the entire release of the parking brakes by the use of tractor service air. Since the agency is determined to reduce the design restrictiveness of its safety standards wherever possible, NHTSA agreed to test the Berg system to determine its viability as an alternative to the existing reservoir requirement.

The agency's tests were conducted at the Transportation Research Center in East Liberty, Ohio, and the results are available in the docket (file number 79–03–GR–006). The tests showed that with one failed reservoir, the remaining reservoir could not release the parking brakes. Therefore, the system failed the existing requirements of Standard No. 121. However, the parking brakes could be easily released by use of tractor supplied air. The amount of time necessary to release the brakes using either reservoir or tractor supplied air is not significant. Further, testing showed that operation of a vehicle with the Berg system when a reservoir had failed would not result in excessive brake temperatures. As a result of these test results and to promote flexibility in the compliance with agency safety standards, the agency proposes to amend the standard in a way that will permit the use of tractor air to release parking brakes.

First, NHTSA proposes that S5.2.1.1 of the standard be deleted. This action would remove the present requirement that a trailer be equipped with a reservoir tank that is capable of releasing the parking brakes when there is a failure in the service air system. The agency proposes to amend the language of the standard in the parking brake system section by adding a new section (S5.6.5) to allow the use of tractor air to release the parking brakes on trailers. This section would also include a performance specification regarding the ability to remove a trailer with a failure in its service brake system from the roadway. Comments are specifically requested on the appropriateness of the proposed value of the maximum drawbar force necessary to move the trailer.

The agency is also proposing the amendment of other sections of the standard to clarify the emergency and parking brake requirements. These sets of requirements have been detailed in S5.6 and S5.8 of the standard. However, these sections have been very confusing because they cross reference each other and regulations of the Bureau of Motor Carrier Safety. The title of the emergency braking section (S5.8) would be changed to "breakaway braking capability," to more accurately describe its true function. In Notice 22 to this docket, the agency proposed amending these sections to simplify and clarify the requirements. That action received mostly favorable comments. The proposal was terminated, however, when the agency became involved in litigation on the standard.

NHTSA proposes to reword these sections now in a slightly different manner than that proposed earlier. The new wording would simplify the parking brake requirements and more clearly specify the breakaway brake performance requirements. The BMCS regulation would no longer be referenced in the standard. However, the BMCS test requirement would be incorporated directly into the standard in S5.8. The wording change merely would clarify the requirements and would not impose any new requirements on any manufacturer nor would it change the manner in which existing vehicles comply with the standard.

The agency has examined the costs and other impacts of this proposal. Deletion of the requirement for a separate reservoir capable of releasing the parking brakes will enable manufacturers to achieve cost savings of approximately three dollars and to make innovations in brake systems. The agency tentatively concludes that this can be done without adversely affecting safety.

Based on this examination, the agency concludes that the proposal is neither a major one within the meaning of E.O. 12291 nor a significant one within the meaning of the DOT Regulatory Policies and Procedures. The agency also concludes that the cost savings are not sufficiently large to warrant preparation of a regulatory evaluation under those DOT Policies and Procedures. Further, since there is a cost savings, the agency concludes that the proposed action would not have a significant adverse impact on a substantial number of small entities.

This agency is providing a 30-day comment period instead of the normal 45-day period to expedite this rulemaking. This step is being taken because the proposed action could result in reduced compliance costs and in additional opportunity for innovation in designing improved brake systems and because there is a desire to take immediate advantage of these possibilities. For these reasons and because this proposal would relieve a restriction, the agency is also proposing that the amendments would become effective upon publication in the **Federal Register.**

NHTSA is in the process of reviewing Standard No. 121 and requests any suggestions that commenters may have relating to any aspect of the standard.

§ 571.121 [Amended]

In accordance with the foregoing, the agency proposes the following amendments to Volume 49, Part 571 of the Code of Federal Regulations, § 571.121:

1. S5.2.1.1 would be removed and reserved.

2. S5.6 would be amended to read:

S5.6 *Parking brake systems.* Each vehicle other than a trailer converter dolly, agricultural commodity trailer, heavy hauler trailer, or pulpwood trailer shall have a parking brake system that, under the conditions of S6.1, meets the requirements of S5.6.1 or S5.6.2, at the manufacturer's option, and the requirements of S5.6.3 and S5.6.4.

3. S5.6.5 would be added to read as follows:

S5.6.5 *Parking brake control—trailers.*

S5.6.5.1 *Parking brake application.* The parking brake system shall apply whenever the air pressure in the supply line is reduced to atmospheric pressure.

S5.6.5.2 *Parking brake release.* Connecting a 2,000 cubic inch reservoir (pressurized to 100 psi) to the supply line of the trailer (with trailer reservoirs initially pressurized to 100 psi) shall fully release all parking brakes on the trailer. The introduction of any single leakage type failure in the service brake system of the trailer (other than a failure of the trailer air supply line or a valve common to the service and parking brake systems which would cause complete loss of air pressure on the supply line) shall not cause reapplication of the parking brakes on more than one axle. Any such reapplication shall not prevent the trailer from being towed with a drawbar force equivalent to 5 percent of the sum of the GAWR's of the trailer.

4. S5.8 would be amended to read as follows:

S5.8 *Breakaway braking capability—trailers.* Each trailer shall be equipped with a brake system which, under the conditions of S6.1, conforms to the requirements of S5.8.1 and S5.8.2. The components of that brake system may be the same as those of the parking brake system.

S5.8.1. *Breakaway braking performance.* The application of the brakes shall be with a force not less than that required to meet S5.6.1 or S5.6.2.

S5.8.2. *Breakaway braking operation.* The brakes shall apply automatically when the air pressure in the supply line is at atmospheric pressure, and shall release when 90 psi is applied to the trailer air supply line coupling.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detain their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The principal authors of this notice are Mr. John Machey of the Crash Avoidance Division and Mr. Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1397 and 1407); delegations of authority at 49 CFR Part 1.50 and 501.8)

Issued on June 23, 1981.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 81-21648 Filed 7-21-81; 10:19 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold public hearings for the purpose of public input on Amendment Number 1 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.

DATES: Written comments on the amendment from members of the public may be submitted no later than August 15, 1981. Individuals or organizations wishing to comment on the amendment may do so at public hearings to be held as follows:

August 10, 1981—Mobile, Alabama.

August 11, 1981—Lafayette, Louisiana.

All of the above hearings will start at 7:00 p.m. and adjourn at 10:00 p.m.

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to: Chairman, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Public hearing locations:

August 10, 1981, Holiday Inn—Downtown, 255 Church Street, Mobile, Alabama.

August 11, 1981, Holiday Inn South, U.S. 90 East, Lafayette, Louisiana.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 2401 West Kennedy Boulevard, Tampa, Florida 33609, (813) 228–2815.

SUPPLEMENTARY INFORMATION: The hearings will deal with a proposal to amend the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), under authority of the Magnuson Fishery Conservation and Management Act.

The FMP is based on the premise that restraint of the harvest of small shrimp until they reach a more optimum size will produce more pounds of shrimp and a greater total value. To accomplish this the Gulf of Mexico Fishery Management Council (Council) established a closed area in the fishery conservation zone (FCZ) off Florida inhabited by small pink shrimp. A seasonal closure for brown shrimp in the FCZ off Texas was provided to protect a mass migration of small shrimp until they reach a larger size and provide a greater biomass. Both closures correspond to closures established in the territorial seas of the adjacent states.

The Council, through the Southeast Fisheries Center of National Marine Fisheries Service (NMFS), is monitoring to identify the effect of the closures which became effective in May 1981.

This amendment directs the Regional Director of NMFS to review research findings each year and authorizes him to adjust the regulations in accordance with findings and objectives. He is to publish annually his intent to take action or not to take action as provided. Lead time to make the change through FMP and regulation amendments presently requires about 280 days. The action proposed herein will provide for a flexible procedure within the FMP to allow for future regulatory amendment, if needed, within about 120 days. The shorter time period for regulation change would allow correction of any undue hardship to participants in the fishery before the following season.

Dated: July 20, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-21623 Filed 7-22-81; 8:45 am]

BILLING CODE 3510-12-M

Notices

Federal Register
Vol. 46, No. 141
Thursday, July 23, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 81-7-102; Docket 39647]

Sea Airmotive Additional Points Proceeding; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (81-7-102).

SUMMARY: The Board is instituting the *Sea Airmotive Additional Points Proceeding* and is proposing to grant unrestricted authority to Sea Airmotive at 86 Alaskan points under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve on all persons listed below, no later than August 6, 1981, a statement of objections, together with a summary of the testimony, statistical data and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 39647, which we have entitled the *Sea Airmotive Additional Points Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon all parties in the service list to Order 81-7-102.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5216.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-7-102 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-7-102 to that address.

By the Bureau of Domestic Aviation: July 17, 1981

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-21585 Filed 7-22-81; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See 14 CFR 302.1701 et seq.)

Week ended July 17, 1981.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
July 16, 1981	39613	Delta Air Lines, Inc., Hartsfield Atlanta International Airport Atlanta, Georgia 30320. Application of Delta Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a new certificate of public convenience and necessity or for an amendment to its certificates for Routes 27F and 154 permanently or temporarily authorizing Delta to engage in the scheduled air transportation of persons, property, and mail on an unrestricted basis between Cincinnati, Ohio and Toronto, Ontario, Canada. Conforming applications, motions to modify scope, and answers may be filed by August 13, 1981.
July 16, 1981	39617	A/S Conair, c/o Morris R. Garfinkle, Galland, Kharasch, Calkins & Short, 1054 Thirty-first Street, N.W., Washington, D.C. 20007. Application of A/S Conair pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to operate charter flights of persons and/or property between points in the Kingdom of Denmark and points in the United States, as well as authority to operate charters from various specified European countries to the United States. A/S Conair also seeks authority to operate circle tour charter flights. Answers may be filed by August 13, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-21587 Filed 7-22-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 39251]

New Gateways to Brazil Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Wednesday, August 12, 1981, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before Friday, July 31, 1981, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., July 20, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-21586 Filed 7-22-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council and Its Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC). The Council and its SSC will hold joint and separate public meetings. The Council and its SSC will meet to discuss the role of the SSC in Council activities; election of officers; report from the intercouncil swordfish meeting; snapper-grouper fishery management plan (FMP) modification update; review of other FMP activities, as well as other management and administrative matters. The SSC will also meet separately to discuss the role of the SSC in Council activities.

DATES: The Council/SSC public meeting will convene on Tuesday, August 25, 1981, at approximately 1:30 p.m., and will adjourn on Thursday, August 27, 1981, at approximately noon, at the South Carolina Wildlife and Marine Resources Department, Division of Marine Fisheries, Fort Johnson Road, Charleston, South Carolina. The SSC public meeting will convene on Monday, August 24, 1981, at approximately 1:30 p.m., and will adjourn on Tuesday, August 25, 1981, at approximately noon, at the Council's Headquarters, One Southpark Circle, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: July 16, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-21521 Filed 7-22-81; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

[Grant No. 35-02-90752]

University of New Mexico Grant Appeal; Memorandum Opinion

By the NTIA Grant Appeals Board:

In 1979, the University of New Mexico ("University") was awarded a grant of $550,000 under our Public Telecommunications Facilities Program ("PTFP"). This competitive grant, which was one of the 148 that were awarded that year, was to cover 75 percent of the cost of some fifty pieces of equipment that the University would use to expand and improve the service provided by its VHF public television station in Albuquerque.

This appeal centers upon the procedures that the University used to buy the television transmitter and associated apparatus, items falling within the cluster covered by the PTFP grant award. The relevant facts are not in dispute. The University issued a solicitation in February 1980. Bids were obtained and the Harris Corporation was the low bidder, offering to provide the relevant equipment for $189,977. The University, however, exercised its lawful prerogatives and cancelled this bid solicitation without award.

In June 1980, the University again called for competitive bids. The new bid specifications were "generally based upon the manufacturer's (RCA's) architects and engineers specifications * * *," and incorporated thirty "Highly Desirable Features." The only domestic supplier currently able to provide all thirty such features was in fact the sole bidder, RCA Corporation. Harris did not submit a bid this time, but instead protested the bid specifications, objecting specifically to ten of the listed "Highly Desirable Features." Harris complained to the University that the practical effect of the bidding process was to direct the award to the competitor.

The University did not act affirmatively on Harris' complaint. Instead, the University determined to award the contract to RCA, in the amount of $219,874. On July 7, 1980, however, Dr. John Cameron, director of the PTFP, notified the University that, having received a complaint from Harris, completing the award to RCA would be at the University's own risk. In essence, Dr. Cameron apparently determined, as the NTIA Grant Officer's March 1981 decision fully details, that the University's bid procedures were not consistent with the general requirement contained in OMB Circular No. A–110 (which is part of the PTFP regulations as published in the **Federal Register**), namely, that "[a]ll procurement transactions [of Federal grant recipients] shall be conducted in a manner to provide, to the maximum extent practical, open and free competition." See 41 FR 3207 (July 30, 1976). The University has protested this action and, in conjunction with this appeal, has argued that the PTFP should release the funds necessary for it to consumate the procurement of the RCA equipment.

Attorneys for the University, Harris Corporation, and RCA participated ably and actively in this unusually complicated and issue-laden PTFP grant appeal. The University's basic argument is that NTIA lacks the authority under the relevant enabling statutes and regulations lawfully to control the procurement conduct of PTFP grantees. The University cites provisions of the 1978 Public Telecommunications Financing Act and the underlying public broadcasting legislation. It also maintains that it did not violate proper procurement standards and advances responsible arguments regarding appropriate burdens of proof.

We have carefully reviewed all of the pleadings and associated documents surrounding this appeal, examined the relevant laws, and considered at length the arguments that all parties to this matter have presented. We have determined to sustain the Grant Officer's decision and to reject the University's appeal.

We believe that the University's basic contention—that NTIA lacks any authority to consider and to act on the basis of an alleged exclusion of competition in the procurement of equipment pursuant to a grant—is wrong. Competition, as an abundance of Supreme Court decisions attest, has long been "our fundamental national economic policy" (*United States* v. *Philadelphia National Bank*, 374 U.S. 321, 372 (1963)), the "Magna Carta of free enterprise" (*United States* v. *Topco Assoc., Inc.*, 405 U.S. 596, 610 (1972)), and the "polestar by which all must be guided * * *." (*City of Lafayette* v. *Louisiana Power & Light Co.*, 435 U.S. 389, 406 (1978)). The enabling legislation under which the PTFP operates specifically directs the program to achieve "delivery of public telecommunications services * * * by the most efficient and economical means" (47 U.S.C. 390(1)), language that invites, indeed, almost compels reference to competitive standards and considerations. See, e.g., *Denver & R.G.W.R. Co.* v. United States, 387 U.S. 485, 492 (1967); *Gulf States Util. Co.* v. *FPC*, 411 U.S. 747, 759 (1973).

It is true, as the University points out, that section 398 of the Communications Act prohibits any Federal agency from exercising "any direction, supervision, or control over the content or distribution of public telecommunications programs and services * * *" (47 U.S.C. 398(c)). We do not believe, however, that this language can reasonably be construed to, in effect, completely immunize the University's procurement of equipment from all PTFP scrutiny. Cf. *Ft. Pierce Utilities Authority* v. *NRC*, 606 F.2d 986, 995 (D.C. Cir. 1979).

This is so, first, because the basic purpose of this prohibition, enacted initially as part of the 1967 public broadcasting legislation, is to forestall

any government regulation of program content. See generally *Community Service Broadcasting of MidAmerica v. FCC*, 593 F.2d 1102 (D.C. Cir. 1978); *Network Project v. CPB*, 561 F.2d 963 (D.C. Cir. 1977) (and citations therein). The Grant Officer's March 1981 decision in this proceeding discusses the manifest purpose of this provision of the statute, and we are in general agreement with that discussion. Id. at p. 7 et seq.

Second, while it may be possible to argue hypothetically that requiring sound bidding practices in a grantee's equipment procurement could be extended to such an extreme degree that some control over program content would be achieved (cf. *Grosjean v. American Press Co.*, 297 U.S. 233 (1936)), the conventional, and we believe generally accepted, view is that statutes should not be so literally construed as to "lead to absurd results * * * or thwart the obvious purpose of the statute." *Chicago Transit Auth. v. Adams*, 607 F.2d 1284, 1289 (7th Cir. 1979), *quoting, Commissioner v. Brown*, 380 U.S. 563, 571 (1965).

It is axiomatic that agencies are required to consider generally all relevant factors (*Citizens To Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971)); *Natural Resources Defense Council v. NRC*, 539 F.2d 824, 845 (D.C. Cir. 1976)). Sensitivity to competitive issues is required on the part of virtually all Federal agencies. See, e.g., *Volkswagenwerk AG v. FMC*, 390 U.S. 261, 274 (1968); *Sabin v. Butz*, 515 F.2d 1061, 1067 (10th Cir. 1975); *Heath v. Aspen Skiing Corp.*, 325 F. Supp. 223, 232 (D. Colo. 1971); *Overseas Media Corp. v. McNamara*, 385 F.2d 308 (D.C. Cir. 1967); *Financial Analysis Service, Inc. v. Califano*, 1978-2 CCH Trade Cas. ¶ 62,232 (D.D.C., March 28, 1978).

To accept the construction of section 398 of the Act urged by the University would, in effect, create an unwarranted "glaring loophole" (*Connell Construction Co.*, 421 U.S. 616, 633 (1975)). We will not thereby repeal the general requirement that basic economic policies favoring free and open competition be considered. Furthering "efficient and economic delivery" of telecommunications services, as the basic PTFP statute directs, and insuring that grantees do not artificially limit competition in their procurement activities, are not repugnant but rather complementary objectives. See, e.g., *Mid-Texas Communications v. AT&T*, 615 F.2d 1372, 1379 (5th Cir. 1980) (and citations therein).

We appreciate the University's argument that it is subject to requirements independent of any PTFP scrutiny or review, such as New Mexico State procurement requirements and other possible sanctions. See generally Note, *Antitrust and Nonprofit Entities*, 94 Harv. L. Rev. 802 (1981). This Board need not determine with great particularity here, however, exactly what actions would or would not pass its own, let alone another jurisdiction's, competitive policy muster. For whatever may be the permissible limits, the University's actions were reasonably determined by the Grant Officer to exceed them, and we agree. We concur in his finding—that the University's cancellation of a bid solicitation, followed by a new solicitation based upon the successful bidder's product specifications and calling for these ten "Highly Desirable Features" available only from that one domestic supplier—does not comport with reasonable, competitive bidding procedures. The Grant Officer's decision in short, was fair, reasonable, and supported by substantial evidence.

The University has argued that special features, unique to RCA's equipment, could prove worth the additional approximately $30,000 expenditure in the long run. However, the Grant Officer specifically found that many of the protested bid specifications did not reasonably relate to the minimum performance needs of the University, and that other factors used in evaluating the bids were not ascertainable with reasonable certainty. Nothing in our regulations or any others would prohibit the University from purchasing equipment of whatever degree of engineering sophistication and expense it deems desirable—but not, of course, with Federal grant money. To fulfill its statutory requirements, the PTFP is ordinarily required to support more modest undertakings, a general requirement that is especially relevant given today's overriding necessity for fiscal austerity and budgetary restraint. The Grant Officer also acted correctly, in our judgment, in declining to condone procurement actions which, regardless of post hoc rationalizations, nonetheless create even the appearance of anticompetitive conduct.

While we are thus sustaining the Grant Officer's ruling as well within his necessary operational discretion, we want to stress that we are not denying support of the University's transmitter procurement effort. The University, if it so chooses, may request further bids for this equipment, and we are assured that funding will be available to assist in any proper procurement.

In summary, we believe that the Grant Officer acted reasonably here and that the actions taken are consistent with the lawful and prudent administration of the Public Telecommunications Facilities Program. The Grant Officer's decision, accordingly, is affirmed.

(Catalogue of Federal Assistance: 11.550)

Dated: June 26, 1981.

Veronica Ahern,

Richard M. Firestone,

Kenneth Robinson,

Chair.

[FR Doc. 81-21558 Filed 7-22-81; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Quillayute River Navigation Project, La Push, Wash.; Intent To Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Preparation of a draft environmental impact statement (EIS) for long-term operation and maintenance of the existing Quillayute River Navigation Project at the town of La Push, Washington. The project is located entirely within the boundaries of the Quileute Tribe Indian Reservation.

SUMMARY: 1. *Description of Action.* The current Quillayute River Navigation Project was authorized by the River and Harbor Act of 3 July 1930. Work under this project included dredging of a small boat basin and navigation channel, construction of a jetty and dike, and maintenance of the existing spit at the river mouth. The proposed action consists of long-term maintenance and operation of project features.

2. *Preferred Alternative.* No preferred alternative exists at this time.

3. *Other Alternatives.* Alternatives at this time include, but are not limited to, the following: (a) modification of project structures and reduction of maintenance dredging, (b) cease maintenance (no action), (c) offshore breakwater construction, (d) diversion of Quillayute River through the spit, (e) upgrading of boat basin training wall, (f) continuation of existing maintenance, and (g) alternative rehabilitation structures.

a. *Modification of Project Structures and Reduction of Maintenance Dredging.* This alternative involves rehabilitation of the upper spit, construction of a lower spit berm, rehabilitation of the jetty, and extension of the training wall. It would also include maintenance dredging of the navigation channel about every other year, starting in FY 1983, and dredging

of the small boat basin every four to five years. The construction and rehabilitation work would require excavation of 30,000 cubic yards (c.y.) of material as well as placement of approximately 110,000 tons of bedding material and armor rock. This would result in significantly reduced need for normal maintenance dredging activities, which currently involve removal of approximatley 100,000 c.y. of material every other year from the channel. It would also reduce the frequency of short-term work performed on the spit.

b. *No Action.* This alternative would allow breaching of the spit by ocean wave action, with subsequent shoaling and loss of the navigation channel. Extensive damage would occur to the Quileute tribal fisheries, resorts, fish canneries, small boats, commercial and charter fish facilities, and U.S. Coast Guard facilities during severe winter storms.

c. *Offshore Breakwater Construction.* This alternative would provide good protection for the spit, but would entail high construction and annual maintenance costs and may disrupt natural littoral drift. It may also have an adverse effect on the esthetics of the area. This would not reduce the need for the dredging currently required.

d. *Diversion of the Quillayute River Through the Spit.* This alternative would consist of breaching the spit and diverting the river with a dike across the river downstream of the breach. River bedload would provide nourishment for the spit. Diversion would eliminate or alter Quileute tribal fisheries in the river mouth and restrict boat access to the river during rough seas.

e. *Upgrading of the Boat Basin Training Wall.* This would allow the spit to behave naturally and would require upgrading the training wall to withstand wave forces transmitted over the spit, especially during storm conditions. An advantage would be the elimination of the maintenance costs of Quillayute Spit. Disadvantages include lack of protection of non-Federal facilities downstream of the boat basin and the ensuing loss of general navigation benefits they contribute as well as the loss of the use of the navigation channel due to shoaling.

f. *Continuation of Existing Maintenance.* This alternative would allow continuation of current practices and would be expected to result in continuation of the problems currently existing at the site, which include degradation of the spit, shoaling of the navigation channel, and damage to structures in the small boat basin. It would also necessitate continuation of periodic work on short-term solutions to breaches in the spit, such an emergency berms.

g. *Alternative Rehabilitation Structures.* This alternative would involve substitution of various alternative structures in place of those outlined in alternative 3a. These alternative structures include such material as using cobble fill or sheetpile wall in place of the rock types previously mentioned.

4. *Signficant Issues.* (Significant issues pertain to those concerns which will be addressed in the draft EIS. The significance of an issue does not necessarily mean that significant impacts to any resources will result.) Major concerns to be addressed in this EIS include effects of the various alternatives on salmon migration and rearing, smelt habitat, other fish and shellfish resources, water quality, threatened and endangerd species, backwater flooding of the town of La Push, cultural resources, wetlands, sediment movement, and socioeconomic impacts.

5. *Other Environmental Review.* A Pub. L. 95–341 ethnological survey of the project area is in progress and the results will be discussed in the draft EIS.

6. *Draft EIS Availability.* The draft EIS for the long-term, continued operation and maintenance of the Quillayute River Navigation Project is scheduled to be available for public review by 15 December 1981.

ADDRESS: Questions and/or comments on this proposed action and draft EIS should be directed to: Messrs. David Kehoe and Keith Phillips, Environmental Resources Section, Seattle District, U.S. Army Corps of Engineers, Post Office Box C–3755, Seattle, Washington 98124. Telephone (206) 764–3624 (FTS 399–3624).

Dated: July 17, 1981.

Leon K. Moraski,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81–21526 Filed 7–22–81; 8:45 am]

BILLING CODE 3710–ER–M

Intent To Prepare Environmental Impact Statement for the Waterloo, Iowa, Local Protection Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a supplement to the final environmental impact statement.

SUMMARY:

1. *Description of Action.* The Final Environmental Impact Statement (FEIS) for the Waterloo, Iowa, Local Protection Project was filed with the Council on Environmental Quality on 12 November 1971. The original project consists of about 15 miles of earthen levees, 2 miles of concrete floodwalls, and a small dam and detention reservoir on Virden Creek. The project included 5 pumping stations, ponding area, and 38 gatewells to handle interior drainage. The purpose of the original project is to provide protection from flooding of Cedar River, Black Hawk Creek, and Virden Creek for approximately 4,200 acres of residential, commercial, and industrial property within the city of Waterloo, Iowa. The original project also provides for widening the Cedar River cut-off channel along approximately 3,000 feet of the channel, and dredging the Cedar River channel for about 2,500 feet along the channel.

This Supplement to the FEIS concerns additional flood protection measures along Blower's Creek and its upstream branches at the east end of the original project. The additional flood protection measures are:

a. Channel modifications along stretches of approximately 6,800 feet, 1,600 feet, and 1,000 feet of Blower's Creek and its upstream branches.

b. Removal of, modifications to, and new construction of railroad and vehicle bridges over Blower's Creek.

2. *Alternatives.*

a. A discussion of alternatives considered for the original project can be found in the Final Environmental Impact Statement for the Waterloo, Iowa, Local Protection Project.

b. Three alternatives for additional flood protection measures along Blower's Creek are being considered: protection from the 50-, 100-, and 200-year floods. Channel modifications for each alternative will be along the same stretches of the creek but will vary in channel width, channel depth, and side slopes. A pumping station at the mouth of Blower's Creek may also be considered. The 50-year alternative would modify one highway bridge, remove one vehicle bridge, and provide for construction of two new vehicle bridges and one new railroad bridge. The 100- and 200-year alternatives would be the same as the 50-year alternative except a new highway bridge would be constructed instead of just a modification to an existing structure and an additional railroad bridge would be constructed.

3. *Public Involvement.* Various meetings were held with local officials to discuss planning aspects of the

original project. On 24 June 1970, a public meeting was held to review and discuss the environmental, recreational, and engineering aspects of the proposed plan. News releases were issued concerning the meetings. A news release was also issued on 27 August 1971 announcing that the Draft Environmental Impact Statement had been prepared and was available from the District Engineer. The Draft and Final Environmental Impact Statements were sent to government agencies requesting their views and comments.

The Supplement to the Final Environmental Impact Statement addressing additional flood control measures along Blower's Creek will be sent to Federal, State, and local government agencies, as well as private groups and individuals for comment. Coordination with interested agencies and individuals will be maintained during preparation of environmental documents.

4. *Elements to be Addressed in the Supplement to the FEIS.* The Supplement to the FEIS will address modifications to the original project in the form of additional flood control measures along Blower's Creek. This project is subject to the Fish and Wildlife Coordination Act, Historic Preservation Act, Endangered Species Act, Executive Order 11988 on Flood Plain Management, and Executive Order 11990 on Wetlands. If required under Section 404 of the Clean Water Act, an evaluation report will be prepared and, in accordance with Section 401 of the Act, an application for water quality certification will be submitted to the State of Iowa. Public notices would be issued.

5. *Estimated Release Date.* The Draft Supplement to the FEIS will be released for public review on or about 31 August 1981.

Questions about the proposed action and the Supplement to the Final Environmental Impact Statement should be directed to Commander, US Army Engineer District, Rock Island, Clock Tower Building, Rock Island, Illinois 61201.

Dated: July 16, 1981.

Bernard P. Slofer,

Colonel, Corps of Engineers, Commander and District Engineer.

[FR Doc. 81-21506 Filed 7-22-81; 8:45 am]

BILLING CODE 3710-HN-M

Office of the Secretary

Defense Science Board Task Force on Application of High Technology to Ground Forces; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Application of High Technology to Ground Forces will meet in closed session on 10 August 1981 at Fort Lewis, Washington, and on 16 September 1981 at Fort Bragg, North Carolina.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meetings on 10 August and 16 September 1981 the Task Force will review current missions of light forces and make recommendations concerning the application of high technology to enhance battlefield capabilities.

In accordance with 5 U.S.C. App. 1 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 20, 1981.

[FR Doc. 81-21557 Filed 7-22-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-012; ERA Case No. 52970-9039-01, 02, 03, 04-82]

Issuance of Final Prohibition Orders; Tucson Electric Power Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice and issuance of final prohibition orders to Tucson Electric Power Company.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the issuance of final prohibition orders to Tucson Electric Power Company's (TEP) Irvington Generating Station Units 1, 2, 3 and 4. The orders, issued pursuant to section 301(c) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), prohibit the powerplants from burning natural gas or petroleum in a mixture with an alternate fuel in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency.

DATE: The final orders will take effect on September 21, 1981.

FOR FURTHER INFORMATION CONTACT:
Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, 202-653-4055.
Steven A. Frank, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3302, Washington, D.C. 20461, 202-653-4187.
Marilyn L. Ross, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-178, Washington, D.C. 20585, 202-252-2967.

SUPPLEMENTARY INFORMATION: On December 31, 1980, ERA issued proposed prohibition orders to the following powerplants owned and operated by TEP:

Docket No. and generating station	Plant No.	Megawatt capacity	Location
ERA-FC-81-012:			
Irvington Station	1	80	Tucson, AZ.
Do	2	80	Do.
Do	3	105	Do.
Do	4	156	Do.

Notice of the proposed prohibition orders was published on January 7, 1981 (46 FR 1769) and January 26, 1981 (46 FR 8078). These proposed prohibition orders were issued pursuant to sections 301(c) and 701(b) of FUA and, when final, will prohibit the units from burning natural gas or petroleum in a mixture with an alternate fuel in amounts in excess of the minimum amounts necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency. The proposed prohibition orders set forth the criteria which ERA used for making the statutorily-required findings that it is technically and financially feasible for each of the powerplants to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source, prior to the issuance of final prohibition orders.

In accordance with 10 CFR 501.51(b), the publication of the proposed prohibition orders commenced an initial public comment period of three months, during which time TEP was given an

opportunity to respond to ERA's initial finding of technical feasibility contained in the proposed prohibition orders, and to identify its entitlement to any exemptions for which the powerplants might qualify. No comments were received. TEP did not challenge ERA's initial finding, nor did it identify any exemptions for which the units might qualify.

On May 4, 1981, a public meeting was convened by DOE in Tucson, Arizona, for the purpose of encouraging public participation in identifying the key issues, including environmental issues, associated with the proposed conversion of the units. A transcript of the meeting was prepared and incorporated in the record of the proceeding.

On May 18, 1981, ERA issued a combined Notice of Intention to Proceed (NOIP) and Notice of Availability of Tentative Staff Analysis (Notice of Availability) pursuant to 10 CFR 501.51(b)(4) and 501.51(b)(6) (46 FR 27155, May 18, 1981). The NOIP would normally commence a second three-month comment period; however, TEP requested, and ERA granted the request, that the remaining public comment periods be combined, pursuant to 10 CFR 501.51(b)(8), into a single 45-day comment period.

The Tentative Staff Analysis (TSA) concluded that the findings of technical and financial feasibility required by section 301(c) of FUA could be made. The staff conclusions were based on a review of the information provided by TEP, including technical and feasibility reports, and on the Company's stipulations regarding the technical and financial feasibility of the conversion. The TSA recommended that the proposed prohibition orders be finalized, and that units 1 and 2 be limited to no more than 52.9 percent of the operating hours on petroleum or natural gas, and units 3 and 4 be limited to no more 36.5 percent of the operating hours on petroleum or natural gas.

Following the publication of the NOIP/Notice of Availability, ERA received requests for a public hearing pursuant to 10 CFR 501.51(b), from the Southern Arizonans for Fair Energy Rates (SAFER) and the Phoenix Building and Construction Trades Council and the Southern Arizona Building and Construction Trades Council (Trades Councils). A notice of the public hearing, to be held in Tucson, Arizona on June 22, 1981, was published in the Federal Register on May 26, 1981 (46 FR 28210). Participants in the hearing included SAFER, the Trades Councils, TEP and ERA. ERA staff and representatives of TEP made presentations, and were questioned by particpants at the hearing. A number of questions regarding the conversion and based on information contained in a trip report dated January 15, 1981 prepared by the case manager, were raised by the Trades Councils. The questions focused on information in the report which varied from testimony presented by ERA witnesses. ERA's responses to these questions indicated that the trip report has been based on information supplied by TEP in early planning phases of the conversion, and that ERA's analysis utilized information supplied by the company later in the proceedings. Following the public hearing, the record remained open for a period of 14 days. No comments were received during this time. On July 10, 1981, the Presiding Officer certified the record.

An environmental assessment was prepared by ERA and was reviewed and approved by DOE's Office of Environment. On the basis of the environmental assessment, the Office of Environment determined, after consultation with the Office of General Counsel, that the proposed prohibition orders are not major federal actions significantly affecting the quality of the human environment and, therefore, an environmental impact statement was not required. The Finding of No Significant Impact was published in the Federal Register on June 25, 1981 (46 FR 32931).

On the basis of ERA's review of the entire record of this proceeding, ERA has determined to issue final prohibition orders to TEP for its Irvington Generating Station Units 1, 2, 3, and 4, located in Tuscon, Arizona. The final prohibition orders, including the findings on which they are based, are set forth following this notice.

Finding of Technical Feasibility

In accordance with section 301(c) of FUA, ERA has found that it is technically feasible for Irvington Station Units 1, 2, 3, and 4 (hereafter rferred to as Irvington 1, 2, 3, and 4) to use a mixture of petroleum or natural gas and coal as their primary energy source without substantial physical modification of units and without substantial reductions in the rated capacities of the units.

This finding is based upon information contained in the public record, particularly:

1. For Irvington 1, 2, and 3, a feasibility study entitled "Engineering Report Coal Conversion, Tuscon Electric Power Co., Irvington Units 1, 2, 3", dated October 1980, and prepared by Combustion Engineering, the manufacturer and builder of these three units (OFC Docket No. 52970-9039-01, 02, 03, 04-82, Document No. 15;

2. For Irvington 1, 2, and 3, the testimony of Vincent Llinares, Manager of Performance Design Special Services, Combustion Engineering, regarding conversion of the units to burn a coal/natural gas or oil mixture, given at the public hearing, Tuscon, Arizona, June 22, 1981 (*supra*, Document No. 72, pp. 97-117);

3. For Irvington 4, a feasibility study entitled "Conversion to Coal Firing, Tucson Electric Power Company, Irvington Station Unit No. 4", dated October 7, 1980, and prepared by the Foster Wheeler Energy Corporation, the manufacturer and builder of Irvington 4 (*supra*, Document No. 14);

4. For Irvington 4, the testimony of Ronald Lewis Davies, Manager of Engineering Projects, Foster Wheeler Energy Corporation, given at the public hearing, Tucson, Arizona, June 22, 1981 (*supra*, Document No. 72, pp. 86-93);

5. For Irvington 1, 2, 3, and 4, the testimony of Alfred C. Metz, Chief, Engineering Analysis Branch, Office of Fuels Conversion, ERA, regarding the proposed conversion, given at the public hearing, Tucson, Arizona, June 22, 1981 (*ibid.*, pp. 16-22);

6. For Irvington 1, 2, 3, and 4, a letter of stipulation dated May 4, 1981, from J. Thomas Via, Jr., Vice President, Environmental, Tucson Electric Power Company to Robert L. Davies, Assistant Administrator for Fuels Conversion, ERA (*supra*, Document No. 27); and

7. For all units, the testimony of Marian F. Eilers, Senior Environmental Protection Specialist, Environmental Analysis Branch, Office of Fuels Conversion, ERA, regarding stack height, given at the public hearing, Tucson, Arizona, June 22, 1981 (*supra*, Document No. 72, p. 30).

The evidence, taken together, confirms ERA's initial finding that the conversion of Irvington 1, 2, 3 and 4 are technically capable of physical conversion to permit the use of a coal/natural gas mixture as their primary energy source (Tentative Staff Analysis, May 19, 1981, *supra*, Document No. 33, pp. 5-7). The necessary and suggested modifications to the units will require a number of changes including the addition of equipment such as pulverizers, an ash conveying system and sootblowers; the replacement of the economizers of an in-line spiral fin or bare tube type; the relocation of the windboxes and increasing the slope of the furnace hopper bottoms in Irvington 1, 2, and 3 to prevent coal ash accumulation; an increase in the stack

height of 102 feet; and the possible conversion of all of the units from a pressurized to a balanced draft operation. None of the modifications, either individually or collectively, have been found by ERA to be substantial within the meaning of FUA, a fact also stipulated to by TEP.

ERA has found that post-conversion operations will involve an overall 24.8% annualized derating of the units (*supra*, Document 33, pp.6–7) with the following operational limitations which are incorporated into the terms of these final prohibition orders:

(1) Irvington 1 and 2 will be limited to no more than 52.9% of operating hours on petroleum or natural gas,

(2) Irvington 3 and 4 will be limited to no more than 36.5% of operating hours on petroleum or natural gas.

ERA has also found that the ordered conversion will not affect the reliability of operation of the units nor will it result in TEP's reserve margin dropping below 15% during any period of the year, including the peak load season during which the units can operate at full capacity using natural gas as their primary energy source (*supra*, Documents 27; 33, p. 6; and 72, pp. 124–127).

Finding of Financial Feasibility

In accordance with section 301(c) of FUA, ERA has found that it is financially feasible for Irvington 1, 2, 3 and 4 to use a mixture of petroleum or natural gas and coal as their primary energy source.

This finding is based upon information contained in the public record, particularly:

1. Letter of stipulation, dated May 4, 1981, from J. Thomas Via, Jr., Vice President, Environmental, Tucson Electric Power Company to Robert L. Davies, Assistant Administrator for Fuels Conversion, ERA (*supra*, Document No. 27).

2. Testimony of Barbara J. Ioanes, Financial Analysis Branch, Office of Fuels Conversion (OFC) ERA, and Lois Marks, Fuel Supply and Transportation Analysis Branch, Fuels Conversion Analysis Division, OFC, ERA, given at the public hearing, Tucson, Arizona, June 22, 1981 (*supra*, Document No. 72, pp. 22–29).

The testimony given by the ERA staff analysts confirms TEP's stipulation that the proposed conversion is financially feasible in that the total and individual unit costs of using a coal/natural gas or a coal/petroleum mixture will not substantially exceed the cost of using imported petroleum (*ibid.*, pp. 27–28).

This conclusion is based on cost calculations performed by ERA staff using the formula provided in 10 CFR 504.12 *ibid.*, p. 64). Calculations of the delta, or discounted life cycle cost savings, indicated a savings of $131 million as a result of the proposed conversions, using the special amortization for pollution control equipment and the sum of the years digits depreciation method for the capital expenditures. ERA's calculations used an oil price of $29.76 a barrel, delivered to site, and a coal price of $45 per ton, delivered to site. The delivered coal cost includes $25.70 per ton plus $19.30 transportation cost. However, the evidence indicates that TEP may be able to negotiate a more favorable, unit train rate for coal delivery, thereby reducing the transportation cost, perhaps significantly (*ibid*, pp. 23–25 and 28–29). The fuel inventory assumed was 78 days average supply at the prices cited (*ibid.*, p. 28).

Conclusion

Based upon the evidence in the public record, ERA has concluded that the requirements of section 301(c) of FUA that findings of technical and financial feasibility with respect to the conversion of Irvington 1, 2, 3, and 4 have been met and that Irvington 1, 2, 3, and 4 should be prohibited from the use of petroleum or natural gas as their primary energy source in excess of 52.9% and 36.5%, respectively, of their operating hours.

Final Prohibition Orders

Pursuant to section 301(c) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) ERA, having made the findings of technical and financial feasibility required by section 301(c) of FUA, issues these prohibition orders to the following powerplants owned and operated by the Tucson Electric Power Company:

Docket No. and generating station	Plant No.	Megawatt capacity	Location
ERA-FC-81-012:			
Irvington Station	1	80	Tucson, AZ.
Do	2	80	Do.
Do	3	105	Do.
Do	4	156	Do.

The prohibitions contained in the final orders issued to the above-named powerplants shall be effective as follows:

Unit 1—June 1, 1987
Unit 2—June 1, 1987
Unit 3—June 1, 1986
Unit 4—June 1, 1985

These dates are subject to revision by ERA, at its discretion, upon notification by Tucson Electric Power Company of unanticipated delays in the schedule for conversion. After the prohibitions take effect, Units 1 and 2 shall be limited to no more than 52.9 percent of their operating hours on petroleum or natural gas, and units 3 and 4 shall be limited to no more than 36.5 percent of their operating hours on petroleum or natural gas. Until such time that the prohibitions take effect, each of the units may use natural gas or petroleum, as a primary energy source for up to 100% of their operating hours. These orders shall be effective on September 21, 1981.

(Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 et seq.) as amended by Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620 and Pub. L. 95–621; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (42 U.S.C. 8301 et seq.); E.O. 11790, 39 FR 23185 (June 25, 1974); E.O. 12009, 42 FR 46267 (Sept. 15, 1977))

Issued in Washington, D.C., on July 15, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-21567 Filed 7-22-81; 8:45 am]

BILLING CODE 6450-01-M

The Office of Hearings and Appeals

Cases Filed; July 3 Through July 10, 1981

During the week of July 3 through July 10, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: July 17, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 3 through July 10, 1981]

Date	Name and Location of Applicant	Case No.	Type of submission
July 6, 1981	Armour Oil Company, Washington, D.C.	BFA-0704	Appeal of Information Request Denial. If granted: The June 3, 1981, Information Request Denial issued by the Western District Office of Enforcement of the Economic Regulatory Administration would be rescinded, and Armour Oil Company would receive access to information regarding the March 25, 1981, Notice of Probable Violation issued to the firm.
July 6, 1981	Miller & Chevalier, Washington, D.C.	BFA-0705	Appeal of Information Request Denial. If granted: The June 4, 1981 Information Request Denial issued by the Assistant General Counsel for Interpretations and Rulings would be rescinded, and Miller & Chevalier would receive access to certain DOE information.
July 7, 1981	Office of Enforcement, Washington, D.C.	BRR-0145	Request for Modification. If granted: The June 17, 1981, Decision and Order (Case No. BRO-1066) issued to A's Auto Safety by the Office of Hearings and Appeals would be modified regarding imputed interest on the firm's overcharges.
July 8, 1981	Office of Enforcement/Mabee Petroleum Corporation, Washington, D.C.	BEF-0068	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with the April 20, 1981 Consent Order between the DOE and Mabee Petroleum Corporation.

Notices of Objection Received

[Week of July 3 to July 10, 1981]

Date	Name and location of applicant	Case No.
July 2, 1981	La Gloria Gas & Oil Company, Washington, D.C.	BEE-1653

[FR Doc. 81-21570 Filed 7-22-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order

During the period of June 15 through June 26, 1981, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of the proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated July 17, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

LaGloria Oil & Gas, Houston, Texas: BEE-1653 Crude Oil

On March 30, 1981, LaGloria Oil & Gas Company (LaGloria) filed an Application for Exception from the provisions of 10 C.F.R. § 211.67. The exception request, if granted, would permit LaGloria to receive entitlement relief for crude oil purchases acquired to increase crude oil inventories in connection with a refinery expansion. On June 25, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 81-21560 Filed 7-22-81; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Mead-Phoenix Area Transmission Line, Arizona-Nevada

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to prepare an environmental impact statement and opportunity for comment.

Notice is hereby given that in accordance with the National Environmental Policy Act of 1969 (NEPA), the Western Area Power Administration (Western) has commenced preparation of an environmental impact statement (EIS) to assess the environmental implications of a proposed action to construct, in conjunction with the Salt River Project and the Southern California Public Power Authority, a new transmission facility from the Mead Substation near Boulder City, Nevada, area to the Phoenix, Arizona, area. The proposed action would be located in Maricopa, Yuma, Yavapai, and Mohave Counties in Arizona and in Clark County, Nevada.

The objectives of the subject EIS and related environmental activities are to study and assess the environmental implications of the proposed action. These include the possibilities of locating structures within floodplains or wetlands impacting Federal or State listed or proposed threatened or endangered species or critical habitats, esthetic impacts, crossing irrigated or irrigable agricultural land, crossing Lake Mead National Recreation Area, and possibly causing an adverse effect on historic or cultural properties that are included in or eligible for inclusion in the National Register of Historic Places.

Alternatives currently planned to be assessed in the EIS include the no action alternative; system planning alternatives of building new transmission facilities at ±500-kV a.c.; and building new transmission facilities at ±500-kV d.c.; locational alternatives, and design alternatives.

It is planned that public scoping meetings will be held. One meeting will be in Phoenix, Arizona; one in Lake Havasu City, Arizona; one in Kingman, Arizona; and one in Boulder City, Nevada. A separate public notice of the meetings will be issued to Federal, State, and local agency officials and the generalized public when the exact locations and dates have been finalized.

The draft EIS is tentatively scheduled to be released to the public for review and comment in the fall of 1982. The final environmental report is tentatively scheduled for release during 1983.

All interested agencies, organizations, and persons are invited to submit questions, comments and suggestions.

DATE: Any comments are due on or before August 7, 1981.

ADDRESS: Send comments or suggestions to: Gary W. Frey, Environmental Manager, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401 (303) 231-1527.

FOR FURTHER INFORMATION CONTACT: R. A. Olsen, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

Issued at Golden, Colorado, July 10, 1981.

Robert L. McPhail,

Administrator.

[FR Doc. 81-21568 Filed 7-22-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1890-2]

Information Collection Activities

The purpose of this notice is to identify certain information collection activities to be undertaken by the United States Environmental Protection Agency (EPA) during the six month period July 1, 1981 through December 31, 1981 for specific industrial point source categories. Prior notification will alert affected industries that potential questionnaires, analytical sampling surveys or self monitoring surveys are forthcoming and will enable them to participate in the rulemaking activities. Thus, we are providing the opportunity for any interested persons to comment on these activities during the survey design phase of the data collection efforts.

The following list of industrial categories is organized by type of information collection activity, i.e., economic assessment, analytical sampling, or technical assessment. Data collected through these surveys will be used in supporting and establishing effluent limitation guidelines as required under Sections 301, 304, 306 and 307 of the Clean Water Act.

These information collection activities will be reviewed by the Office of Management and Budget (OMB) in light of the Paperwork Reduction Act of 1980 and in accordance with OMB Clearance No. 2000-0047, formerly No. 158-R-0160. This list of information gathering activities is published twice yearly in the **Federal Register.**

The Environmental Protection Agency has obtained an interim extension of clearance No. 2000-0047 which expired recently. Pending final approval of the application for extension of this clearance, the Agency is continuing to submit surveys to OMB under the interim extension using clearance No. 2000-0047.

Several information collection activities mentioned in this notice were contained in EPA's **Federal Register** notice of Data Collection Activities dated January 15, 1981. Information collection requests repeated in this notice did not commence during the previous reporting period.

Questions concerning economic surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Office of Analysis and Evaluation (WH-586), 401 M Street S.W., Washington, D.C. 20460.

Questions concerning technical or analytical sampling surveys should be directed to the appropriate project officer at the following address: U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Effluent Guidelines Division (WH-552), 401 M Street S.W., Washington, D.C. 20460.

Dated: July 15, 1981.

James N. Smith,

Acting Assistant Administrator for Water.

Economic Assessment

Electrical and Electronic Components
Subcategories: Semiconductors, Electron Tubes
Estimated Number of Plants in Sample: 300
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: Renee Rico, (202) 426-2617

Analytical Sampling

Asbestos Self-Sampling
Estimated Number of Plants in Sample: 80
Approximate Response Burden in Total Manhours Per Plant: 6
Project Officer: Dean Neptune, (202) 426-7770

Oil and Gas Exploration and Production
Subcategory: Offshore
Estimated Number of Plants in Sample: 30
Approximate Response Burden in Total Manhours Per Plant: 16
Project Officer: John Lum or Teresa Wright, (202) 426-4617

Technical Assessment

Coil Coating
Subcategory: Can Making
Estimated Number of Plants in Sample: 30
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: Rex R. Reges, (202) 426-2586

Electrical and Electronic Components
Subcategories: Semiconductors, Electron Tubes
Estimated Number of Plants in Sample: 300
Approximate Response Burden in Total Manhours Per Plant: 8
Project Officer: John C. Newbrough, (202) 426-2582

Pesticides
Subcategories: Manufacturers of Active Ingredients
Estimated Number of Plants in Sample: 55
Approximate Response Burden in Total Manhours Per Plant: 40
Project Officer: George M. Jett, (202) 426-2497

Pesticides
Subcategories: Formulators/Packagers
Estimated Number of Plants in Sample: 100
Approximate Response Burden in Total Manhours Per Plant: 20
Project Officer: George M. Jett, (202) 426-2497

Poultry Processing Phase II
Estimated Number of Plants in Sample: 75
Approximate Response Burden in Total Manhours Per Plant: 16
Project Officer: Daniel Lent, (202) 426-2707

[FR Doc. 81-21578 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-26-M

[OPTS-59056; TSH-FRL-1891-4]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of applications for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny these applications by August 16, 1981. Persons should submit written comments on the applications no later than August 7, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT: Carrie Berlin, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-711, 401 M Street, SW., Washington, DC 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1,1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined many present unreasonable risks or injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to the promulgation of the rules and notice forms.

Interested persons may, on or before August 7, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Rm. E-409, 401 M Street, SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59056]". Comments received may be seen at the above address 8:00 a.m. and 4:00 p.m., Monday through Friday excluding legal holidays in Rm. E-107.

TME 81-21

Close of Review Period. August 16, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500,000,000 and up.

Manufacturing site—Middle Atlantic Region.

Standard Industrial Classification Code—399.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 1,1-methylenebis[4-isocyanatocyclohexane], polymer with 1,3-benzenedicarboxylic acid, polymer with substituted alkane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol.

Use. The manufacturer states that the TME substance will be used as a site limited web coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.

Solids (toluene)—35-45%.

Pounds per gallon—7.99.

Viscosity at 74°—75-200 cps.

Vapor pressure (40% solids in toluene)—27 mm Hg/77° F.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5g/kg.

Acute dermal toxicity LD_{50} (rabbit)—>2g/kg.

Eye irritation (rabbit)—irritating.

Primary dermal irritation (rabbit)—nonirritating.

Acute inhalation (rat)—no mortality 14 days after 4 hr. exposure.

Skin sensitization (guinea pig)—in progress.

Exposure. The manufacturer states that 8 workers manufacturing and using the new chemical substance will have skin exposure for ½ to 4 hr./day, 7 days/yr. during reactor sampling and operating. Exposure levels for workers manufacturing and using the TME substance will average and peak at 0-1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr for ½ hrs./day, 7 days/yr. will be released into the air and from 1,000 to 10,000 kg/yr. into the land. Small amounts of the TME substance will be spilled during reactor sampling and operating. Spilled materials will be drummed and sent to vaulted burial for disposal in an approved landfill.

TME 81-22

Close of Review Period. August 16, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500,000,000 and up.

Manufacturing site—Middle Atlantic Region.

Standard Industrial Classification Code—399.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: 1,3-benzenedicarboxylic acid, polymer with substituted alkane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol.

Use. The manufacturer states that the TME substance will be used as a site limited intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids (toluene)—65–75%.
Acid number—5.
Hydroxyl number—50–70.
Pounds per gallon—8.95.
Viscosity at 73° F—2,500 cps.
Vapor pressure—42 mm Hg/75° F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5g/kg.
Acute dermal toxicity LD_{50} (rabbits)—>2g/kg.
Eye irritation (rabbits)—nonirritating.
Primary dermal irritation—nonirritating.
Skin sensitization—in progress.

Exposure. The manufacturer states that 2 workers manufacturing the TME substance will have skin exposure for ⅛hr./day, 7 days/yr. during reactor sampling and filling. Exposure levels for the workers manufacturing the new chemical substance will average and peak at 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr for ½ hrs./day, 7 days/yr. will be released into the air and less than 10 kg/yr. into the land. Small amounts of the chemical substance may be spilled during reactor sampling and filling. Spilled materials will be drummed and sent to vaulted burial in an approved landfill.

TME 81–23

Close of Review Period. August 16, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—$500,000,000 and up.
Manufacturing site—Middle Atlantic Region.
Standard Industrial Classification Code—399.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: 1,3-Benzenedicarboxylic acid, polymer with 2,2'-[1,2-ethanediylbis(oxy)]bis[ethanol], 1,6-hexanedioic acid, and substituted alkane.

Use. The manufacturer states that the TME substance will be used as a site limited intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids—100%.
Acid number—5.
Hydroxyl number—140–180.
Pounds per gallon—8.42.
Viscosity at 73°—1000 cps.
Vapor pressure—<1 mm Hg/77° F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5g/kg.
Acute dermal toxicity LD_{50} (rabbits)—>2g/kg.
Eye irritation (rabbit)—irritating.
Primary dermal irritation (rabbit)—nonirritating.
Skin sensitization—in progress.

Exposure. The manufacturer states that 2 workers manufacturing the new chemical substance will have skin exposure for ½ hr./day, 7 days/yr. during filling and sampling. Exposure levels for workers manufacturing the chemical substance will average and peak at 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr. will be released for ½ hrs./day, 7 days/yr. into the air and less than 10 kg/yr. into the land. Small amounts of the TME substance will be spilled during filling and reactor sampling. Spilled materials will be drummed and sent to vaulted burial in an approved landfill.

TME 81–24

Close of Review Period. August 16, 1981.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—$500,000,000 and up.
Manufacturing site—Middle Atlantic Region.
Standard Industrial Classification Code—399.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: 2-Hydroxyethyl propenoate, polymer with 1,1-methylenebis[4-isocyanatocyclohexane] and 1,3-benzenedicarboxylic acid, polymer with substituted alkanes.

Use. The manufacturer states that the TME substance will be used as both a site limited and an industrial article coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids—70%.
Viscosity at 130° F.—1200 cps.
Vapor pressure—2 mm Hg/77° F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5g/kg.
Acute dermal toxicity LD_{50} (rabbits)—>2g/kg.
Eye irritation (rabbit)—irritating.
Primary dermal irritation (rabbit)—nonirritating.
Acute inhalation (rat)—no mortality 14 days after 4 hr. exposure.
Skin sensitization (guinea pig)—in progress.
Patch test of cured film on humans (24 hour)—negative.

Exposure. The manufacturer states that 4 workers manufacturing and using the TME substance will have skin exposure for ¾ to 4 hr./day, 7 days/yr. during drum filling, removing and operating. Another site controlled by the submitter states that 4 workers using the new chemical substance will have skin exposure for 4 hrs/day, 3 to 260 days/yr. during drum opening. Exposure levels will average and peak at 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 30 kg/yr. for 5 to 8 hrs/day for 3 to 7 days/yr. will be released into the air and less than 3,000 to 30,000 into the land. Small amounts of the TME substance will be spilled during reactor sampling, filling and opening. Fumes will be exhausted from the coater. Spilled materials will be cured to a hard film and disposed of in an approved landfill.

Dated: July 15, 1981.

Denise F. Swink,

Acting Director for Management Support Division.

[FR Doc. 81-21580 Filed 7-22-81; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51283; TSH-FRL-1891-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA's statements or interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) and

November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of six PMN's and provides a summary of each.

DATE: Written comments by:

PMN 81-304—August 18, 1981.

81-306, 81-308, 81-309, 81-310, 81-312—August 23, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51283]" and the specific PMN number, should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-304, 81-312	Carrie Berlin	202-426-8816	E-221.
81-306, 81-308, 81-310.	Robert Jones	202-426-2601	E-208.
81-309	Kathleen Ehrensberger.	202-755-1150	E-335.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-304

Close of Review Period. September 17, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-substituted amino-substituted-phenylazo-benzothiazole sulfonic acid salt.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH at 10 g/l water—6.8.

Solubility in water—150 g/l at 20°C. 200 g/l at 90°C.

Physical form—Solid.

Toxicity Data

Acute oral LD_{50} (rat)—5.0 g/kg.

Primary dermal irritation (rabbit)—Slight irritant.

Eye irritation—(rabbit)—Moderate irritant.

Skin sensitization (guinea pig)—Not a strong sensitizer.

Environmental Test Data

Fish toxicity (rainbow trout)—LC_{50} at 96 hrs, 100 mg/l.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-306

Close of Review Period. September 22, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual sales—Between $10,000,000-$99,000,000.

Manufacturing site—East-North Central U.S.

Standard Industrial Classification Code—264.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: complex of 4,4'-dihydroxyphenyl sulfone and an alkylamine.

Use. Claimed confidential business information. Generic use information provided: ingredient of a paper coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point—100°C.

Crystalline form and color—White needles.

Solubility—Insoluble in water and methanol.

Toxicity Data. Claimed confidential business information.

Exposure. The manufacturer states that 5 workers manufacturing and processing the new substance may be exposed dermally and by inhalation 2-8 hr/da, 28-66 da/yr.

Environmental Release/Disposal. The manufacturer states that none of the new substance will be released into the environment.

PMN 81-308

Close of Review Period. September 22, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual Sales—Between $10,000,000 and $99,000,000.

Manufacturing site—East-North Central U.S.

Standard Industrial Classification Code—264.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: complex of mixture of 4,4'-dihydroxyphenyl sulfone and 2,4-dihydroxyphenol sulfone and an alkylamine.

Use. Claimed confidential business information. Generic use information provided: ingredient of a paper coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point—100°C

Solubility—Soluble in acetone, insoluble in water and methanol.

Crystalline form and color—White powder.

Toxicity Data. Claimed confidential business information.

Exposure. The manufacturer states that five workers may have skin and inhalation exposure 2-8 hr/da, 28-66 da/yr during the manufacture and processing of the new substance.

Environmental Release/Disposal. The submitter states that there will be no environmental release during production of the new substance.

PMN 81-309

Close of Review Period. September 22, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: adduct of a substituted alkanediol and a silicate.

Use. Clailmed confidential business information. Generic use information provided: open use that will release more than 50 but less than 5,000 kg/yr into the environment with potential skin and eye exposure to chemical and nonchemical industry employees.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	800	1,600
2d year	1,600	2,400
3d year	2,400	3,000

Physical/Chemical Properties

Total solids at 105°C—85.3%

Viscosity—0.52 stokes mg KOH/g.

Color—1 (Gardner).

Hydroxyl value—150 mg KOH/g.

(Values are based on 100% solids of the new substance).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that 24 workers may have skin and eye exposure 4-6 hr/da, 3-24 da/yr during

the manufacture and processing of the new substance. Four workers in a user's site may be exposed through the skin and eyes 8 hr/da, 240 da/yr.

Environmental Release/Disposal. The manufacturer states that during manufacture and processing, total sites environmental release to air and water will be less than 40 kg/yr; release to land will be between 10 and 100 kg/yr. At a typical user location, environmental release will be less than 20 kg/yr to air or water and between 10 and 100 kg/yr to land.

PMN 81-310

Close of Review Period. September 22, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: modified phenolic novalak resin.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. Claimed confidential business information.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-312

Close of Review Period. September 22, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code—2869.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: alkenylated cyclohexanone.

Use. Claimed confidential business information. Generic use information provided: destructive use that will release less than 50 kg/yr of the new substance into the environment with potential exposure to chemical industry employees.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: July 16, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-21582 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51286; TSH-FRL-1891-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA's statements or interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of five PMN's and provides a summary of each.

DATE: Written comments by: PMN 81-320, 81-321, 81-322, 81-323, 81-324 August 31, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51286]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-320, 81-321, 81-322, 81-323.	Carrie Berlin	202-426-8815	E-711.
81-324	George Bagley	202-426-8843	E-210.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81-320

Close of Review Period. September 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500,000,000 and up

Manufacturing site—Middle Atlantic Region

Standard Industrial Classification Code—399

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 1,1 Methylenebis[4-isocyanatocyclohexane], polymer with 1,3-benzene-dicarboxylic acid, polymer with substituted alkane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol.

Use. The manufacturer states that the PMN substance will be used as a web coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.

Solids (toluene)—35-45%.

Pounds per gallon—7.99.

Viscosity at 74°F—75-200 cps.

Vapor pressure at 77°F—27 mm Hg (40% solids in toluene).

Toxicity Data

Acute oral toxicity LD_{50} (rat)—> 5g/kg.

Acute dermal toxicity LD_{50} (rabbit)—>2g/kg.

Primary dermal irritation (rabbit)—nonirritating.

Eye irritation—irritating.

Acute inhalation toxicity (rat)—no mortality 14 days after 4 hr. exposure.

Exposure. The submitter states that during manufacture and use a maximum of 8 workers could have dermal exposure for ½ hr. to 4 hrs./day for 260 days/yr. at an average concentration of 0-1 ppm.

Environmental Release/Disposal. The manufacturer states that less than to 10 kg per year of the substance will be released into the air and between 1,000 to 10,000 kg per year will be released into the land. Spilled materials are drummed and sent to vaulted burial landfill. Cured film on scrapped articles is also landfilled.

PMN 81-321

Close of Review Period. September 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500,000,000 and up

Manufacturing site—Middle Atlantic Region
Standard Industrial Classification Code—399

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 1,3-Benzenedicarboxylic acid, polymer with substituted alkane and 2-ethyl-2 (hydroxymethyl)-1,3-propanediol.

Use. The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids—65–75% in toluene.
Acid number—50–70.
Pounds per gallon—8.95.
Viscosity at 73°F—2,500 cps.
Vapor pressure—42mm Hg/75°.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—> 5g/kg.
Acute dermal toxicity LD_{50} (rabbits)—> 2g/kg.
Eye irritation (rabbit)—nonirritating.
Primary dermal irritation—nonirritating.

Exposure. The manufacturer states that dermal exposure may occur for a maximum of 2 workers for ½ hr./day for 159 days/yr. at an average and peak concentration of 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr. will be released into either the land or the air.

PMN 81–322

Close of Review Period. September 30 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000 and up
Manufacturing site—Middle Atlantic region
Standard Industrial Classification Code—399

Specific Chemical Indentity. Claimed confidential business information. Generic name provided: 1,3-Benzenedicarboxylic acid, polymer with 2,2'-[1,2-ethanediethylbis(oxy)]-bis(ethanol), 1,6-hexanedioic acid, and substituted alkane.

Use. The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids—100%.
Acid number—5.
Hydroxy number—140–180.
Pounds per gallon—8.42.
Viscosity at 73°F—1,000 cps.
Vapor pressure—<1mm Hg/77°F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5g/kg.
Acute dermal toxicity LD_{50} (rabbits)—>2g/kg.
Eye irritation (rabbit)—nonirritating.
Primary dermal irritation—nonirritating.

Exposure. The submitter states that during manufacture a maximum of 2 workers may have dermal exposure for ½ hr/day, 47 days/yr. at an average and peak concentration of 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the new substance will be released to the air or land. Small amounts may be spilled during reactor sampling or tank filling. Spilled materials will be drummed and sent to an approved landfill.

PMN 81–323

Close of Review Period. September 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000 and up
Manufacturing site—Middle Atlantic region
Standard Industrial Classification Code—399

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 2-Hydroxyethylpropenoate, polmer with 1,1-methylenebis[4-isocyanatocyclohexane] and 1,3-benzenedicarboxylic acid, polymer with substituted alkanes.

Use. The manufacturer states that the PMN substance will be used as an article coating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light amber liquid.
Solids—70%.
Viscosity at 130°F—400–1200 cps.
Vapor pressure—2mm Hg/77°F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—>5 g/kg.
Acute dermal toxicity LD_{50} (rabbits)—>2 g/kg.
Acute inhalation toxicity (rat)—no mortality 14 days after 4 hr. exposure.
Eye irritation (rabbit)—irritating.
Primary dermal irritation (rabbit)—nonirritating.
Patch testing of cured film on humans, 24 hrs—negative.

Exposure. The submitter states that during manufacture and use dermal exposure may occur for a maximum of 4 workers, 4 hrs/day, 260 days/yr. at an average and peak concentration of 0–1 ppm.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr. of the new substance will be released into the air and between 1,000–10,000 kg/yr. into the land. Spilled materials are cured to a hard film and disposed of in an approved landfill. Cured film on scrapped articles is also landfilled.

PMN 81–324

Close of Review Period. September 30, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic Region
Standard Industrial Classification Code—285,e

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester based on carbomonocyclic anhydride and alkane diols.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the substance will be used in an open use that will release more than 50 but less than 5,000 kgs per year.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	100,000	1,000,000
2d year	1,000,000	2,000,000
3d year	2,000,000	4,000,000

Physical/Chemical Properties

Total solids at 105°C—67.0%.
Color (Gardner)—5.
Density—1.122.
Flash Point—82°F.
Acid Value—22.0mg KOH/g.

Toxicity Data. No data were submitted.

Exposure. The manufacturer claims that manufacture and/or processing will involve potential skin and eye contact for chemical industry employees with a frequency of five times per week; that its' use will involve potential skin and

eye contact for non-chemical industry employees with a frequency of five times per week; and that there will be essentially no consumer contact since the substance will be an integral part of an article.

Environmental Release/Disposal. The manufacturer states that there will be a loss to the environment as a component of certain byproduct materials, as a sludge from Publicly Owned Treatment Works (POTW) and to landfill from manufacture.

Dated: July 15, 1981.

Denise F. Swink,

Acting Director for Management Support Division.

[FR Doc. 81-21561 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-31-M

[PP 1G2450/T312; PH-FRL-1891-7]

Dow Chemical Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been established for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on the raw agricultural commodities forage grasses and forage grass hay at 100 part per million (ppm); cattle, horses, and sheep (kidney) at 1 ppm; cattle, horses, and sheep (meat, fat, and meat byproducts except kidney) at 0.2 ppm.

DATE: These temporary tolerances expire May 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 412D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7070).

SUPPLEMENTARY INFORMATION: Dow Chemical Co., Agricultural Products Division, P.O. Box 1706, Midland, MI 48640, has submitted a pesticide petition 1G2450 to the EPA. The petition requested the establishment of a tolerance for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on forage grasses and forage grass hay at 100 ppm; cattle, horses, and sheep (kidney) at 1 ppm; cattle, horses, and sheep (meat, fat, and meat byproducts except kidney) at 0.2 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit (464-EUP-67) which is being established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material have been evaluated and it has been determined that the temporary tolerances will protect the public health. Therefore, the temporary tolerances are established on the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The amount of the pesticide to be used will not exceed the amount authorized in the experimental use permit.

2. Dow Chemical will immediately notify EPA of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance, and on request make these records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 1, 1983. Residues remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary tolerance is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: July 13, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-21579 Filed 7-22-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 81-303, BC Docket No. 81-418, et al.]

Cumberland College of Tennessee and Vanderbilt Student Communications, Inc.; Applications for Hearings

Adopted: June 30, 1981.

Released: July 17, 1981.

By the Commission: Commissioners Fogarty and Jones absent.

In re applications of Cumberland College of Tennessee, Lebanon, Tennessee. Has: 91.3 MHz, Channel 217, .48 kW, 86 feet. For renewal of license. Req: 91.3 MHz, Channel 217, .48 kW, 86 feet; BC Docket No. 81-418, File No. BRED-521. For an extension of time of its construction permit to complete modification of facilities of noncommercial station WFMQ(FM), Lebanon, Tennessee; BC Docket No. 81-419, File No. BMPED-801106AL. Vanderbilt Student Communications, Inc., Nashville, Tennessee. Has: 91.1 MHz, Channel 216, 430 W, 150 feet; Req: 91.1 MHz, Channel 216, 4.465 kW, 659 feet; BC Docket No. 81-420, File No. BPED-2424. For modification of facilities of noncommercial station WRVU(FM), Nashville, Tennessee.

1. The Commission has before it for consideration the 1973 renewal application, as supplemented, of Cumberland College of Tennessee (hereinafter Cumberland) for noncommercial educational radio station WFMQ(FM), Lebanon, Tennessee, and the application of Vanderbilt Student Communications, Inc. (Vanderbilt), tendered January 28, 1977, for improvement of the facilities of its noncommercial educational radio station WRVU(FM), Nashville, Tennessee. The modification proposal of WRVU(FM) to increase both its effective radiated power and antenna height results in an overlap of its 54 dBu signal level interference contour with WFMQ(FM)'s normally protected 60 dBu signal level contour. This results in prohibited objectionable interference, as defined by 73.509 of the Commission's Rules, rendering the applications mutually exclusive. Therefore, they must be designated for a comparative hearing.

2. *The Cumberland Application.* This matter dates back to 1973, when

Cumberland failed to file its renewal application for the license term beginning August 1, 1973, until August 13, 1973, after the previous license term had expired.[1] Subsequently, in the fall of 1974, the station went silent without so notifying the Commission. Thereafter, in 1976, it failed to supplement its pending 1973 renewal application. By letter dated June 15, 1976, the Chief of the License Division of the Broadcast Bureau informed Cumberland that unless it submitted its application within 30 days, with a statement regarding its intentions to resume operations, the original 1973 renewal application would be dismissed for failure to prosecute and its call letters deleted. Subsequently, Cumberland tendered its 1976 supplemental renewal application on October 26, 1976. That renewal application contained a narrative explaining that WFMQ(FM)'s silence was due to a change in its original plans to locate the transmitter and studio off the Cumberland main college campus and the prolonged illness of a local engineer who agreed to construct the station at no cost to the licensee. We were informed, however, that in an effort to make the station more accessible and to permit a longer weekly broadcast schedule, an application was being prepared to request a move of the station's facilities to the Cumberland campus.

3. Subsequently, on November 27, 1978, Cumberland was again asked to state its plans for WFMQ(FM) in light of its lengthy silence and the interest of others in its frequency. In response, William O. Barry, Cumberland's consulting engineer, visited the Commission on the licensee's behalf, and stated that a decision would be made within one month whether to reactivate WFMQ(FM) or to surrender its authorization. As we again received no response, by letter dated January 17, 1979, Cumberland's pending 1973 renewal application was dismissed for failure to prosecute and the station's call sign was deleted.

4. By letter received February 2, 1979, Cumberland petitioned to reinstate its application and call sign. In support, Cumberland again informed us of the need to move the WFMQ(FM) facilities onto the main campus and an impending meeting of the school's Board of Trustees, scheduled for February 12, 1979, to address that question. In addition, Cumberland requested until February 28, 1979, to respond as to its future plans.

5. The future direction of WFMQ(FM) became apparent when, on March 6, 1979, Cumberland tendered to the Commission a minor facilities change application seeking to change its transmitter, antenna and main studio location to the Cumberland campus. In light of Cumberland's commitment to reactivate WFMQ(FM), the Chief, Broadcast Bureau, by letter dated April 12, 1979, reinstated the license renewal application and call letters. Shortly thereafter, Cumberland's minor modification request was granted and a construction permit was issued requiring completion of construction by June 14, 1980.

6. Cumberland's 1979 renewal supplement to its still pending 1973 application was due at the Commission April 2, 1979. It was tendered on July 5, 1979, three months late. By letter dated August 2, 1979, we informed Cumberland that it had failed to comply with the publication requirement of Section 1.580 (now 73.3580) of the Rules. Nothing to indicate such compliance has been received at the Commission.

7. On June 13, 1980, Cumberland sought additional time to complete construction of its facility due to the discovered state of disrepair of its antenna. Cumberland estimated that construction would be completed by October 1, 1980. Therefore, on July 16, 1980, we granted the requested extension requiring construction to be completed by November 8, 1980. Thereafter, by application filed November 6, 1980, Cumberland again requested additional time, until March 1, 1981, for construction due to the non-delivery of certain equipment on order. To date Cumberland has tendered no information to indicate whether WFMQ(FM) has resumed operation nor has it reported on its progress toward completion of the construction. In fact, the Field Operations Bureau reports that the station remains silent.

8. Initially, we note that by granting a construction permit and extensions thereto, the Commission relies on an applicant's representations that it will promptly and expeditiously proceed with construction and initiation of its authorized service. Moreover, in the case of extensions, the Commission has expressly stated that such requests will be granted only where the permittee has demonstrated that it has proceeded with due diligence but was prevented from construction by unforeseen circumstances beyond its control or where there are other public interest considerations demonstrated to justify the extension. Section 73.3534(a) of the Commission's Rules; *Harold A. Jahnke*, 79 FCC 2d 109, 42 RR 2d 1113, *recon. denied*, 48 RR 2d 855 (1980). Therefore, an issue is appropriate to determine whether the facts and circumstances justify grant of the application for an exension of time to complete construction of the WFMQ(FM) broadcast facilities.[2]

9. Under the Communications Act of 1934, as amended, a broadcast license is granted only if the public interest, convenience and necessity will be served thereby. In this context, it has been longstanding Commission policy that in fairness to prospective applicants and the listening public, and in the interest of an efficient utilization of the broadcast frequency spectrum, prolonged periods of inactivity by a licensee will not be tolerated. See *Palladium Times, Inc.*, 6 RR 846 (1950). Cumberland was granted a license to operate a broadcast station to serve the Lebanon community, but since at least the fall of 1974, WFMQ(FM) has been silent and, therefore, has failed to fulfill its public service obligations. Although the Commission generally attempts to take a more lenient posture with regard to the status of noncommercial educational operations, we must still expect that the overriding duty of any licensee in this situation to be the "prompt restoration of service." See *Hex Country Radio, Inc.*, 64 FCC 2d 914, 40 RR 2d 1096 (1977), *aff'd.*, 44 RR 2d 396 (1978). "Prompt restoration of service" has not been accomplished by the licensee. Further, from the materials presently before us, we are unable to ascertain whether Cumberland's conduct, either before or after repeated Commission inquires, warnings, dismissal of its pending renewal application, deletion of its call letters, and finally reinstatement of its license, exhibits the necessary concern for restoring service. In light of the above circumstances, an issue is warranted to examine the facts and circumstances surrounding Cumberland's prolonged silence to determine whether Cumberland is committed to restoring service to the Lebanon community.

10. Moreover, as outlined above, the licensee's conduct in its dealings with the Commission since 1973, concerning relevant matters of major significance

[1] In order to be timely filed under then Section 1.539 of the Commission's Rules, the Cumberland renewal application was to have been received by May 3, 1973, three months before expiration of the license period. That filing requirement was subsequently amended, and, pursuant to Section 73.3539, for all license periods after December, 1974, renewal applications must be tendered to the Commission four months prior to the license expiration date.

[2] Cumberland's failure to complete construction by March 1, 1981, as represented, may also raise questions as to this licensee's diligence in its operation of WFMQ(FM) (see paragraphs 9 and 10, *infra*.).

such as filing and supplementing its renewal application, responding to Commission inquiries, and keeping us timely informed of the status of WFMQ appears to reveal a consistent pattern of ineptness, negligence and disregard for Commission processes. Cumberland's failure to exercise sufficient care in preparing and prosecuting its application resulted in unnecessary inconvenience and delay in the administrative process, and, most significantly, deprivation of an existing service for the public of the Lebanon community of license. The Commission cannot condone such a pattern of carelessness, inadvertence, and indifference to our rules and procedures. Cumberland's lack of diligence in preparing and prosecuting its applications as well as its failure to timely and adequately respond to numerous inquiries require us to examine whether Cumberland can be relied upon in the future to fulfill the duties and responsibilities incumbent on a Commission licensee. *Marvin C. Hanz*, 22 FCC 2d 147, 18 RR 2d 830 (Rev,. Bd. 1970), *rev. denied*, FCC 70-724, released July 8, 1970; *Beamon Advertising, Inc.*, FCC 63R-467, 1 RR 2d 285 (Rev. Bd. 1963). Accordingly, such an issue will be specified.

11. *The Vanderbilt Application.* Vanderbilt is legally, financially and technically qualified to operate as proposed. However, since its proposal is mutually exclusive with Cumberland's, it must be designated for hearing in a consolidated proceeding on the issues specified below. Moreover, the respective proposals are for different communities. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio services.

12. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

A. To determine, pursuant to Section 319(b) of the Communications Act of 1934, as amended, and § 73.3534(a) of the Commission's Rules whether the failure of Cumberland College of Tennessee to complete construction of Station WFMQ(FM) has been due to causes not under its control or whether there are other matters sufficient to justify a further extension of time to complete construction.

B. To determine whether Cumberland's conduct in its dealings with the Commission constitutes a pattern of carelessness, ineptness, negligence and/or disregard for Commission processes and, if so, the effect thereof on Cumberland's qualifications to remain a licensee.

C. To determine, in light of the facts and circumstances surrounding its prolonged silence, whether Cumberland is legitimately committed to restoring broadcast service to the Lebanon community of license, and, if not, the effect thereof on Cumberland's qualifications to remain a Commission licensee.

D. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from each proposal, and the availability of other primary aural service to such areas and populations.

E. To determine, in the light of § 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

F. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to § 311(a)(2) of the Commission Rules, give local notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.359(g) of the Rules.

15. It is further ordered, That the Secretary of the Commission shall send, by Certified Mail, Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-21839 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-27B]

FM Broadcast Applications Accepted for Filing and Notification of Cut-off Date; Erratum

Released: July 16, 1981.

The FM application listed below, which was inadvertently placed on the cut-off notice, Report No. A-27, Mimeo Number 002048 released on July 10, 1981 is hereby removed from that notice.

BPH-810410AF (new), Coffeyville, Kansas, The Midwest Broadcasting Co., Inc., Req: 92.1 MHz; Channel No. 221A, ERP: 3 KW; HAAT: 300 ft.

On the same cut-off notice the application shown below was inadvertently listed on an incorrect Channel (217): the correct listing is:

BPED-791226AI (WGEV), Beaver Falls, Pensylvania, Geneva College, HAS: 88.3 MHZ; Channel No. 202D, TPO: .01 KW. (LIC), Req: 88.3 MHZ; Channel No. 202A, ERP: .149 KW; HAAT: 232 ft.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-21592 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-27A]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date; Erratum

Released: July 14, 1981.

The FM application listed below, which was inadvertently placed on the cut-off notice, Report No. A-27, Mimeo Number 002048 released on July 10, 1981, is hereby *removed* from that notice. Cut-off date:

BPH-810427AG (new), Paxton, Illinois, Plowshare Broadcasting, Inc., Req: 104.9 MHz; Channel No. 285A, ERP: 3 kW; HAAT: 300 feet.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-21590 Filed 7-22-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0324]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Adoption of Fee Schedules for the Book-Entry and Definitive Securities Safekeeping services, the Securities

Purchase and Sale Service, and the Noncash Collection Service.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221) requires that fees be set for Federal Reserve Bank services. The Board has adopted a set of pricing principles for Federal Reserve Bank services and has established implementation dates on which fees for each of the services will become effective. The Board has now adopted fees for the securities and noncash collection services.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Associate Director for Federal Reserve Bank Operations (202/452–2738); Earl G. Hamilton, Manager, Service Pricing (202/452–3879); Merphil S. Kondo, Senior Economist (202/452–3875); Florence M. Young, Manager, Fiscal Agency Review (202/452–3954); Gilbert T. Schwartz, Associate General Counsel (202/452–3625); Lee S. Adams, Senior Counsel (202/452–3623).

SUPPLEMENTARY INFORMATION:

Introduction

The Monetary Control Act of 1980 requires that fees be developed for Federal Reserve Bank services according to a set of pricing principles established by the Board. The Act provides that the Board shall begin putting into effect a schedule of fees not later than September 1, 1981, and that services covered by the fee schedule are to be made available to all depository institutions. The Board, in accordance with the requirements of the Act, published for comment proposed pricing principles and fee schedules for services on August 28, 1980 (45 FR 58689). The period for public comment expired on October 31, 1980. On December 30, 1980, after considering the more than 230 comments received from the public, the Board took a number of actions related to the pricing of Federal Reserve services, including adoption of revised pricing principles and scheduling of full access and pricing of the book-entry and definitive securities safekeeping securities purchase and sale, and the noncash collection services for October 1981, stating that fee schedules for these services would be published in 1981 (46 FR 1338). The Board has now adopted fee schedules for securities and noncash collection services.

1981 Fee Schedule

The Monetary Control Act of 1980 requires that "over the long run fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced." The Act also requires that fees for Federal Reserve services take into account imputed taxes and financial costs that would have been incurred if the System services had been provided by a private firm. This markup is referred to as the private sector adjustment factor (PSAF).

The proposed fee schedules for Federal Reserve Bank securities and noncash collection services published by the Board in August 1980 were based on estimates of the full 1980 direct and indirect costs of providing these services plus a 12 percent PSAF. On December 30, 1980, the Board adopted a 16 percent PSAF for use in calculating 1981 prices.

The revised fee schedules for securities and noncash collection services will become effective October 1, 1981, at which time access to these services will be provided to all depository institutions. The fee schedules are based on the estimated full direct and indirect costs of providing these services in 1981 plus the 16 percent PSAF. On average, the fees for 1981 are approximately 12 percent higher than those published in 1980 based on 1980 estimated costs. About one-third of this increase results from the use of a higher PSAF. The remainder is due to cost increases and reallocations of costs derived from the improved cost accounting procedures for securities services implemented on January 1, 1981. However, the comparison is not straightforward because of the redefinition of the account maintenance fee in the definitive securities services, and the change in volume units for which such fees will be assessed.

The 1981 fee schedules were calculated by the Federal Reserve Banks using a methodology similar to that used to compute the fee schedule published by the Board in August 1980. The few changes made are described below. The same methodology was used for all Federal Reserve Districts and offices, and estimates were based on full costs using the Federal Reserve's Planning and Control System (PACS). (The cost accounting principles and procedures used by the Reserve Banks are described in System accounting manuals available to the public.)

The fee structure for 1981 has been changed in some respects from that published in August 1980 to simplify the fee schedules and to allow them to conform more closely with current market practice. The amount of revenue projected is essentially the same as under the original fee structure assuming the same volume of activity. The changes are summarized as follows:

Book-Entry and Definitive Securities Safekeeping Services

1. *National Book-Entry Securities Services Fees.* National fees have been established for all book-entry services—the basic on-line transfer charge, the account maintenance charge, and the off-line transfer surcharge. The latter replaces the District off-line surcharge proposed in August. The Federal Reserve Bank of New York will continue time-of-day pricing of intradistrict on-line transfers and extend the practice to interdistrict transfers originating in that District, recovering the standard national fee on average.

The $3.00 fee assessed currently on behalf of the U.S. Treasury and various Federal agencies for interdistrict transfers of book-entry securities will be discontinued when the fee schedule adopted by the Board becomes effective on October 1, 1981.

2. *Definitive Securities Safekeeping Services Fees.* All definitive securities safekeeping services will be priced at the District level except in the Chicago District, where they will be priced at the office level. In accord with its current practice, the San Francisco District's definitive securities services are limited to certain special collateral accounts. General safekeeping accounts are not provided in the San Francisco District.

3. *Accounts Maintenance Fee for Definitive Securities.* The fee for maintaining definitive securities safekeeping accounts will be based on number of receipts or issues held, and not on the par value held as originally proposed. (The Federal Reserve Banks of New York and Minneapolis will base their fees upon number of issues because of the filing systems used.) The separate fee for clipping coupons has been eliminated; however, the fee for collecting clipped coupons will continue to be charged under the noncash collection service fee schedule as a separate charge. The account maintenance fee is now calculated to recover the full costs of both maintenance and coupon clipping. While these changes result in the appearance of a lower fee for account maintenance than that proposed under the 1980 structure, the new fee is based on physical volume, rather than value held, and will be levied monthly on the Federal Reserve statement of service charges. Formerly, the account maintenance fee was expressed as an annual fee to be assessed quarterly. At the same time, fees for deposits, withdrawals, redemptions, and account switches are generally lower due to cost reallocations.

Purchase and Sale of Government Securities Service

The basic structure of fees for the purchase and sale of government securities remains unchanged; the fees have been increased to reflect 1981 cost estimates and the 16 percent private sector adjustment factor. It should be noted that the Atlanta District and the St. Louis District do not offer securities purchase and sale services.

Noncash Collection Services

The fees for noncash collection services have been updated to reflect 1981 cost estimates and the 16 percent private sector adjustment factor. In the case of coupons clipped from securities held in safekeeping and shipped to another Reserve District for collection, full costs for the collection service will be recovered by charging the fee of the collecting Reserve Bank.

Currently, a Systemwide coupon shipping fee of $1 per $1,000 value is charged. With the implementation of pricing, this fee will be established at the District level and will differ from $1 at those Reserve Banks where use of the $1 fee will result in significant over- or under-recovery of actual costs.

The 1981 fee schedules for securities and noncash collection services are set forth in Appendix I. Appendix II contains a description of all priced Federal Reserve securities and noncash collection services, and an identification of nonpriced services.

By order of the Board of Governors of the Federal Reserve System, July 17, 1981.

William W. Wiles,

Secretary of the Board.

Appendix I—Fee Schedule Book-Entry Securities Services

(Effective October 1, 1981)

	Per transaction
Security Transfers:	
Originated On-Line	[1] $2.00
Originated Off-Line	[2] 8.50
Received Off-Line	6.50
Account Maintenance	[3] 6.00

[1] Fees at the Federal Reserve Bank of New York will vary by time of day as follows: Time of day, 9:00 a.m.—12:00 noon, originated on-line, $0.50; time of day 12:01 p.m.—2:00 p.m., originated on line, $1.25; time of day, 2:01 p.m.—close, $4.50.
[2] Composed of the on-line origination fee of $2.00 plus the $6.50 off-line surcharge.
[3] Per account per month.

Note.—The $3.00 fee currently assessed by the Federal Reserve Banks on behalf of the Treasury and various Federal agencies for interdistrict transfers of securities will be discontinued effective October 1, 1981.

Fee Schedule—*Definitive Securities Safekeeping, Purchase and Sale, and Noncash Collection Services*

(Effective October 1, 1981)

Federal Reserve District	Definitive securities safekeeping: Deposit, withdrawal or redemption (per transaction)[1]	Definitive securities safekeeping: Account switch (per transaction)	Definitive securities safekeeping: Account maintenance (per receipt per month)[2]	Purchase or sale: Per transaction (3)	Noncash collection (coupon, bond or noncash item): Per envelope or item processed [1]	Noncash collection (coupon, bond or noncash item): Per $1,000 coupon value shipped
Boston	$12.50	$12.50	$2.65	$12.00	$1.80	$1.00
New York	35.50	13.50	5.35	23.00	1.40	1.00
Philadelphia	15.00	10.00	2.50	17.00	2.90	1.00
Cleveland	11.00	11.00	2.00	27.00	2.85	1.00
Richmond	20.00	12.50	1.50	27.00	2.00	1.00
Atlanta	20.00	10.00	2.50	—	1.40	1.00
Chicago	15.00	10.00	3.20	17.50	2.50	1.30
Detroit	11.00	10.00	1.75	17.50	2.50	1.30
St. Louis	16.00	16.00	1.45	—	2.80	.50
Minneapolis	13.50	11.50	1.70	5.50	2.25	.60
Kansas City	15.00	6.50	1.35	10.50	3.20	1.00
Dallas	12.00	5.00	1.40	26.50	2.25	1.00
San Francisco	—	—	—	22.00	6.85	1.00

[1] For bonds as well as other noncash items, add shipping expenses, insurance fees and fees assessed by other Federal Reserve Banks, if any.
[2] In the New York and Minneapolis Districts, the fee shown is per issue per month.
[3] Plus brokers' fees, if any.

Appendix II—Description of Federal Reserve Securities Services

Service Descriptions

The securities services offered to depository institutions by the Federal Reserve fall into three categories: book-entry and definitive safekeeping services; purchase and sale of government securities; and noncash collection services.

Account maintenance fees for book-entry and definitive safekeeping services cover establishing, maintaining, and servicing safekeeping accounts for depository institutions. Separate fees will be imposed for each transaction affecting safekeeping account balances, such as deposits, withdrawals, account switches, and wire transfers of book-entry securities. However, no fees will be imposed for: (1) establishing, maintaining, and servicing collateral accounts for borrowings from the Federal Reserve or for Treasury deposits, such as Treasury tax and loan accounts (see Treasury Department Circulars No. 92 and No. 176.); (2) the handling of transactions affecting the balances of these collateral accounts; [1] (3) the deposit of book-entry securities on original issue; (4) the conversion of definitive securities to book-entry form or the conversion of book-entry holdings to definitive securities (other than wire-related fees); and (5) the payment of principal and interest on U.S. Government and Federal agency securities, including the withdrawal of matured book-entry securities. These services are provided by the Federal Reserve either in its capacity as Fiscal Agent of the United States where reimbursement is provided by the Treasury Department or other Federal agencies, or in its capacity as a central bank lender, under the provisions of Regulation A.

[1] There is no charge for withdrawal of a matured security from a collateral account, but a charge will be imposed for collection of securities other than those issued by the U.S. Treasury or various Federal agencies.

When the fees in the attached schedule are implemented on October 1, 1981, the $3.00 fee for interdistrict security transfers that the Federal Reserve Banks now collect on behalf of the Department of the Treasury and various Federal agencies will be discontinued.

The fees for the purchase or sale of government securities cover the Federal Reserve Banks' costs for receiving requests from depository institutions and placing purchase or sale orders for Treasury and Federal agency securities in the secondary market. Fees assessed by dealers and brokers for executing transactions, if any, will also be recovered from users of this service.

The fees for noncash collection services include receiving, collecting, and crediting the accounts of depository institutions for deposits of items eligible for collection through the Federal Reserve, such as municipal coupons and bonds (including coupons clipped from securities held in safekeeping). See Part C of this appendix for a listing of eligible items. In general, deposits should be shipped directly to the Federal Reserve office that services the territory in which the paying agent is located. Credit for deposits will be posted to accounts maintained at the local Federal Reserve office of the depository institution even though deposits may have been received at another Federal Reserve office.

A. Book-Entry and Definitive Securities Safekeeping Services

1. Book-Entry Safekeeping Services

A depository institution may establish several types of book-entry safekeeping accounts (e.g., a general account, an investment account, a trust account, or a dealer account) with its local Federal Reserve office. To determine the specific types of accounts available, depository institutions should contact their local Federal Reserve office. Account maintenance fees will be assessed for custody and collateral accounts; fees will also be assessed for processing

security transfers affecting those accounts. No fees, however, will be assessed for the maintenance of or activity in collateral accounts supporting borrowings from the Federal Reserve or Treasury deposits.

a. *Security Transfer: Originated On-line.* On-line security transfers are wire transfers of book-entry securities originated by a depository institution that has direct access to its book-entry accounts held at a Federal Reserve office. A depository institution may: (1) transfer book-entry securities held in one of its custody or collateral accounts to another one of its custody or collateral accounts (account switches); and (2) transfer book-entry securities held in one of its custody or collateral accounts to a custody account of another depository institution located within the same Federal Reserve District (intradistrict transfer) or another Federal Reserve District (interdistrict transfer). These transfers may be sent against payment, with the funds being credited to the sending institution's reserve account.

b. *Security Transfer: Originated Off-line.* Off-line security transfers are wire transfers of book-entry securities transmitted by Federal Reserve personnel acting on authenticated requests received from depository institutions. At the request of depository institutions, Federal Reserve personnel will: (1) transfer book-entry securities between custody or collateral accounts of the same depository institution (account switch); and (2) transfer book-entry securities from a custody or collateral account of one depository institution to a custody or collateral account of another financial institution located within the same Federal Reserve District (intradistrict transfer) or another Federal Reserve District (interdistrict transfer), against payment if so authorized. The off-line surcharge only will be imposed for off-line transfers and account switches that do not require the use of the Federal Reserve Communications System.

c. *Security Transfer: Received Off-line.* Security transfers received off-line include intra and interdistrict security transfers destined for depository institutions that have not established on-line communications links with the Federal Reserve. Acting upon authenticated instructions submitted by the receiving depository institution, Federal Reserve personnel will deposit book-entry securities to the custody or collateral account of the depository institution, against payment if so authorized.

d. *Account Maintenance.* Book-entry safekeeping account maintenance fees reflect the costs associated with establishing accounts, maintaining account instructions, maintaining records reflecting book-entry holdings, reconciling accounts, notifying account holders of maturing securities in collateral accounts, and providing periodic statements of account holdings. Except for collateral accounts supporting borrowings from the Federal Reserve or Treasury deposits, a separate monthly fee will be assessed for each custody and collateral account maintained for a depository institution.

2. Definitive Safekeeping Services

A depository institution may establish several types of definitive safekeeping accounts (e.g., a free or unpledged account, a Treasury tax and loan collateral account, a discount collateral account, or in some Districts a public monies collateral account) with its local Federal Reserve office. To determine the specific types of accounts available, depository institutions should contact their local Federal Reserve office. It should be noted that the San Francisco District's services are limited to certain special collateral accounts.

Account maintenance fees will be imposed for custody and collateral definitive securities accounts; fees will also be assessed for processing transactions affecting those accounts. No fees will be assessed for the maintenance of or deposit and withdrawal activity in collateral accounts supporting borrowings from the Federal Reserve or Treasury deposits. Fees will be imposed, however, for the collection of maturing securities other than U.S. Government securities held in these accounts.

a. *Deposits, Withdrawals, and Redemptions.* Deposits, withdrawals, and redemptions of definitive securities are processed at the direction of depository institutions. Acting upon authenticated instructions, Federal Reserve personnel will: (1) accept deposits to custody or collateral accounts and process the related payments; (2) withdraw securities from custody or collateral accounts, effect deliveries, and process the related payments; and (3) withdraw maturing securities from custody or collateral accounts, present them to the paying agent, collect the principal, and credit depository institutions' reserve or clearing accounts. Fees for processing deposits and withdrawals are based on the number of transactions processed without regard to the number of pieces involved. Fees for processing redemptions will include the transaction fees of the Reserve Bank holding the securities as well as the noncash collection fees of the collecting Reserve Bank. Shipping expenses and insurance fees incurred in delivering security withdrawals and redemptions will also be recovered from depository institutions.

b. *Account Switches.* Account switches are transfers of definitive securities among the custody accounts of the same depository institution. Account switches will be processed by Federal Reserve personnel on the basis of authenticated instructions received from depository institutions. Fees for processing account switches are based on the number of transactions processed without regard to the number of pieces involved.

c. *Account Maintenance.* Definitive safekeeping account maintenance fees reflect and costs associated with establishing accounts, maintaining account instructions, storing securities, maintaining records reflecting security holdings, reconciling accounts, detaching maturing coupons from securities and preparing them for delivery to the appropriate paying agent, notifying depositing institutions of maturing securities, and providing periodic statements of account holdings.

A monthly fee will be assessed per account based on the number of receipts held in that account for each depository institution.[2] It should be noted that the fees associated with shipping and collecting maturing coupons will be assessed separately under the noncash collection service.

B. Purchase and Sale of Government Securities

The purchase and sale service includes the receipt of instructions from depository intitutions and the placing of orders to purchase or sell Treasury or Government agency securities through brokers or dealers. A fee will be charged for each transaction processed. Fees assessed by brokers or dealers, if any, will be recovered from users of this service. It should be noted that this service is not available in the Atlanta and the St. Louis Federal Reserve Districts.

C. Noncash Collection

The noncash collection service includes receiving, collecting, and crediting reserve or clearing accounts of depository institutions for eligible items. Federal Reserve offices accept the following items for collection: maturing or matured municipal coupons; called, maturing, or matured municipal securities; bankers' acceptances; bills of lading; drafts; checks with documents attached; and other checks that cannot be handled as cash items. The collection of and crediting for maturing coupons detached from definitive securities held in custody and collateral accounts at a Federal Reserve office are also included in this service. Maturing and matured municipal coupons are processed on a cash basis; that is, depositors are credited on the basis of a time schedule in much the same way that depositors are credited for checks deposited at the Federal Reserve for collection. Credit availability schedules (that is, the specific time frames in which depositors will be credited) are available from any Federal Reserve office. All other noncash collection items are credited to the depositor's account only after payment has been collected. a fee will be assessed for each item (e.g., envelope or security) included in a deposit. In addition, fees for shipping collection items will be charged to users of this service. Fees for shipment of coupon envelopes will be assessed on a fixed rate per thousand dollars of value. Fees for shipment of bonds and othe noncash items will generally be assessed on an out-of-pocket recovery basis.

In general, deposits should be shipped directly to the Federal Reserve office that services the territory in which the paying agent is located. If such items are deposited with the local Reserve office, handling and shipping fees or expenses will be assessed by both the depositing and the collecting office. The fee for collection of coupons detached from securities held in a custody or collateral account at any Federal Reserve office will be

[2] The Federal Reserve Bank of New York and Minneapolis have based their fees on the number of issues held in an account.

the fee set by the collecting Federal Reserve office.

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[Docket No. R-0324]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed Fee Schedules for Coin and Currency Transportation and proposed policy for access to Federal Reserve cash processing services.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that fees be set for Federal Reserve Bank services. The Board has previously adopted a set of pricing principles for Federal Reserve Bank services and has established implementation dates on which fees for each of the services will become effective. The Board now seeks comment on its proposed coin and currency transportation fee schedules and proposed policy for access to cash processing services.

DATE: Interested parties are invited to submit relevant data, views and other comments. Comments must be received by September 25, 1981.

ADDRESS: Comments, which should refer to Docket No. R-0324, should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Associate Director for Federal Reserve Bank Operations (202/452-2738); Merphil S. Kondo, Senior Economist (202/452-3875); Earl G. Hamilton, Manager, Service Pricing (202/452-3879); Steven O. App, Manager, Cash Services, (202/452-2705); Gilbert T. Schwartz, Associate General Counsel (202/452-3625); Lee S. Adams, Senior Counsel (202/452-3623).

SUPPLEMENTARY INFORMATION:

Introduction

The Monetary Control Act of 1980 requires that fees be developed for Federal Reserve Bank services according to a set of pricing principles established by the Board. The Act provides that the Board shall begin putting into effect a schedule of fees not later than September 1, 1981, and that services covered by the fee schedule are to be made available to all depository institutions. The Board, in accordance with the requirements of the Act, published for comment proposed pricing principles and fee schedules for services on August 28, 1980 (45 FR 58689). The period for public comment expired on October 31, 1980. On December 30, 1980, after considering the more than 230 comments received from the public, the Board took the following actions: adopted revised pricing principles; approved the fee schedules for several services, and established implementation dates on which fee schedules for each service will become effective. The Board concluded that commenters had raised significant concerns with respect to the cash transportation fee schedules proposed in August 1980 and announced that: (1) the pricing of currency and coin transportation services would be reviewed; (2) the public would be given the opportunity to comment on a revised fee schedule; and (3) the implementation of pricing of currency and coin transportation and coin wrapping services would be delayed until January 1982.

Comments on the August 1980 proposed fee schedule for coin and currency transportation included statements that no charge should be imposed for this service and suggestions for revision of the fee structure to reduce the disparity in fees. After reconsideration the Board concluded that cash transportation is a service that must be priced under the provisions of the monetary Control Act. The Board continues to regard currency and coin processing (paying, receiving and verifying both coin and currency, and issuing, processing, canceling and destroying currency) as governmental functions and accordingly has not proposed fees for these functions. However, the Board has proposed for comment a policy regarding access to the nonpriced cash processing services.

No significant public comment was received on the coin wrapping fee schedule published in August 1980. The fee schedule for this service will be updated to reflect expected 1982 costs and will be published later this year for implementation in January 1982.[1]

[1] Some Reserve Banks are considering contractual arrangements with private sector suppliers for provision of wrapped coin, similar to the arrangements Reserve Banks have with armored carriers for cash transportation.

Proposed 1982 Fee Schedule

The Monetary Control Act of 1980 requires that "over the long run fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced . . . except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide." The Act also requires that fees for Federal Reserve services take into account "the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm." This markup is referred to as the private sector adjustment factor (PSAF).

The proposed fees for armored carrier service are based on the estimated full 1982 costs of providing the service and existing usage patterns. A private sector adjustment factor of 16 percent has been applied to the administrative costs of cash transportation incurred by the Reserve Banks but not to payments to armored carriers, since the cost of capital and taxes is already included in the System's payments to private carriers.

As in the August 1980 proposal, the revised fee schedule for armored carrier service has two elements: a volume charge and a per-stop charge.[2] In the current proposal, the volume charge is $0.50 nationwide per bag of currency or coin for both deliveries and deposits. A single uniform bag charge simplifies the fee schedule when contrasted with the Board's August proposal which provided for separate charges per bag of coin and per bundle of currency at each Federal Reserve office. This approach also provides for more appropriate allocation of costs between high volume and low volume endpoints.

The revised schedule of per stop charges shows fees by zones served by each Federal Reserve office. These zones now include city and suburban endpoints, and are not comparable to the numbered zones published in August 1980, which were related principally to distance to over-the-road endpoints. The revised zone identifications reflect Reserve Bank groupings of endpoints that have a common proposed per stop charge, and are intended to improve the allocation of costs among endpoints; however, disparities among fees for endpoints located equidistant from a Federal Reserve office are not

[2] The fee structures for some routes in the Cleveland, St. Louis, and Dallas Districts include charges based on mileage or value. These fee structures reflect tariff rates in those areas.

eliminated completely. Since armored carrier service costs are not simply a function of distance, but also reflect the frequency of stops along a route and the extent of competition in the areas served, such disparities may be expected to continue.

A ceiling of $75 is proposed on the per-stop portion of the charge for 1982; a ceiling of $32 per stop was proposed in August 1980 when the volume charge accounted for a larger proportion of armored carrier service revenue. (The share of armored carrier service revenue associated with volume charges is reduced from approximately 50 percent to about 20 percent.) A $75 ceiling is projected to result in costs exceeding revenues by approximately $2.8 million (about 7.3 percent of 1982 armored carrier service costs). A ceiling is proposed for a period no longer than two years (1982 and 1983). The ceiling would be reviewed by the Board after one year and may well be adjusted. By the end of the two-year period, the System intends to recover all costs of armed carrier service within the 48 contiguous States,[3] subject to the Federal Reserve's responsibility to provide a minimum level of service nationwide. During the two-year interim, a variety of methods of reducing transportation costs to high-cost locations will be explored, such as encouragement of increased competition, establishment of cash depots and support for currency exchanges.

Separate fees will be established for institutions with specialized high volume arrangements, such as direct shipments from the Bureau of Engraving and Printing or armored carrier service to a large volume endpoint with circumstances of difficult access. Reduced transportation charge may be available for depository institutions that deposit currency sorted by quality or suitably packaged for high speed processing, or that accept containerized shipments (i.e., trunks or pallets) where the significant reduction in Reserve Bank processing costs justifies a reduction in transportation charges.

The Federal Reserve Banks also accept and deliver coin and currency shipped by registered mail. This service is provided generally to depository institutions at remote locations without armored carrier service available routinely. For endpoints served by registered mail, charges will be based on actual Reserve Bank expenses incurred for postage and full insurance. A ceiling of $37.50 would be established on the 1982 charge for one-way mail delivery either to or from a Reserve Bank. This figure is one-half the ceiling for armored carrier stops, since the armored carrier both delivers cash orders and picks up excess coin and currency in the same trip. The ceiling on registered mail charges will be evaluated after one year.

Access Policy

In connection with the revised fee schedule for cash transportation services, the following policy regarding access to the Federal Reserve's coin and currency processing services is proposed:

By the end of 1983, all Federal Reserve offices will offer access to, at minimum,

- One office of a depository institution per municipality, subject to adjustment where special circumstances (such as the size of the municipality) require a modified policy; *or*
- One office per institution if that suits the structure in the territory served.

The policy proposed provides, after a transition period, for uniform, minimum access nationwide to every depository institution that seeks coin and currency directly from the Federal Reserve. This minimum standard for access to Federal Reserve cash processing service applies to all depository institutions independent of the method of delivery—via Federal Reserve armored carrier, via registered mail or at the Federal Reserve dock.

The Federal Reserve intends to offer access to cash services on the same terms (such as frequency, quality and operating requirements) to both existing and prospective customers. Few difficulties are foreseen in providing uniform access to registered mail service and to Federal Reserve docks for pickups and deliveries of cash by depository institutions that arrange their own transportation. Depository institutions may pick up and deliver currency and coin without charge at Federal Reserve docks, since the provision of coin and currency itself is a responsibility of the central bank. However, Reserve Banks may impose reasonable restrictions on scheduling of pickups and deliveries at the docks to facilitate nondiscriminatory access to Federal Reserve cash processing services.

Because the contractual arrangements between the Federal Reserve and armored carrier firms restrict the latitude for immediate accommodation by the System to changes in requests for armored carrier service, and in view of the short-term constraints of dock capacity and processing equipment, the proposed access policy provides for an interim adjustment period. On the effective date of cash transportation pricing, Reserve Banks will extend access to existing levels of cash service to new customers to the extent feasible. Due to the uncertainties surrounding the response of armored carrier firms and depository institutions to cash transportation pricing, Reserve Banks will continue to impose reasonable limitations on all users regarding the frequency of service,[4] the number of offices served and the size of orders/deposits. The purpose of such limitations is to achieve an orderly transition to uniform direct access to coin and currency for both the private sector and the Reserve Banks. During the transition period, Federal Reserve offices may reduce access to service to existing customers as service to new customers is accommodated. Reserve Banks may also ask depository institutions to enter into agreements for regularly scheduled armored carrier service over a period of time, with advance notice for termination of the agreement.

The proposed access policy permits a Federal Reserve office to serve additional offices of depository institutions where feasible, but only if greater access to cash processing service is offered on a nondiscriminatory basis to all depository institutions via all delivery methods. At the same time, the proposed access policy recognizes the geographic and structural differences among territories served such as terrain, size of political jurisdictions and extent of branching.

The proposed 1982 fee schedules for cash transportation are shown in the Appendix. Detailed information on the endpoints contained within each zone will be made available by the Federal Reserve Banks.

By order of the Board of Governors of the Federal Reserve System, July 17, 1981.

William W. Wiles,

Secretary of the Board.

Appendix—Proposed Fee Schedule, Armored Carrier Cash Transportation Service

Effective January, 1982.

Volume charge: $0.50 per bag for each bag of coin and currency. The fee will be assessed for both deliveries and deposits of cash.

Per stop charge: Shown below.

Total charge: for a single incidence of armored carrier service, the total charge

[3] The same $75 ceiling would apply in 1982 to areas in the noncontiguous United States, such as Alaska, Hawaii, Guam, and Puerto Rico.

[4] Generally, armored carrier service can be arranged on a weekly or alternate week basis.

will be the sum of the volume charge and per stop charge. The minimum total charge will be $10 per incidence for endpoints covered by the stop/volume charge structure.

Note.—There are exceptions to the $0.50 per bag charge in the St. Louis and Dallas Districts, and at the Pittsburgh and Nashville offices, where tariff rates apply.

Contact your Federal Reserve office for information about the institutions served within each zone.

Federal Reserve office	Armored carrier per stop charge in dollars				
Boston:					
Zones 1-5	29	40	62	[1] 90	53
Zone 6	[1] 107				
New York:					
Zones 1-5	35	34	29	63	42
Zones 6-10	17	30	63	37	30
Zones 11-14	35	43	24	28	
Buffalo:					
Zones 1-5	27	29	31	33	35
Zone 6	25				
Philadelphia:					
Zones 1-5	10	16	22	10	25
Zones 6-10	29	37	33	30	44
Zones 11-14	43	51	69	[1] 136	
Cleveland:					
Zones 1-5	29	15	40	40	37
Zones 6-7	46	41			
Cincinnati:					
Zones 1-5	64	24	31	25	61
Zones 6-10	[1] 84	56	47	65	37
Pittsburgh:					
Zones 1-5	16	19	27	18	47
Zones 6-10	21	72	19	24	19
Pittsburgh common carrier:					
Zones 1-5	28	31	34	51	36
Zones 6-10	21	16	43	20	21
Zones 11-13	18	30	61		
Richmond:					
Zones 1-5	22	22	22	41	54
Charlotte:					
Zones 1-4	14	34	40	48	
Baltimore:					
Zones 1-5	1	27	47	25	28
Zones 6-7	[1] 80	[1] 118			
Atlanta:					
Zones 1-4	10	34	41	47	
New Orleans:					
Zones 1-5	19	49	56	63	67
Nashville:					
Zones 1-3	[2]	25	30		
Birmingham:					
Zones 1-2	12	30			
Jacksonville:					
Zones 1-3	24	34	53		
Miami:					
Zones 1-4	16	30	40	50	
Chicago:					
Zones 1-5	[2]	[2]	29	56	[1] 93
Zones 6-9	[1] 129	[1] 165	[1] 201	[1] 238	
Detroit					
Zones 1-5	[2]	23	45	74	[1] 103
Zones 6-7	[1] 132	[1] 161			
St. Louis:					
Special tariff rates apply. Contact your Federal Reserve office for information					
Little Rock:					
Special tariff rates apply. Contact your Federal Reserve office for information					
Memphis:					
Special tariff rates apply. Contact your Federal Reserve office for information					
Louisville:					
Zones 1-5	9	9	27	28	[1] 225
Minneapolis:					
Zones 1-5	14	17	23	29	35
Zones 6-10	42	48	55	62	68
Zones 11-15	75	[1] 81	[1] 87	[1] 93	[1] 100
Zone 16	[1] 107				
Helena:					
Zones 1-5	10	0	18	40	55
Zones 6-10	71	[1] 88	[1] 102	[1] 117	[1] 133
Kansas City:					
Zones 1-5	17	7	66	[1] 78	73
Zones 6-7	60	50			
Denver:					
Zones 1-5	0	4	65	[1] 98	64
Zones 6-10	10	29	10	30	50
Zones 11-15	65	25	40	50	60
Zones 16-20	30	45	60	60	[1] 91
Zones 21-24	30	60	[1] 77	[1] 113	
Oklahoma City:					
Zones 1-5	1	10	6	24	9
Zones 6-10	10	23	39	47	65
Zones 11-15	15	25	26	[1] 80	64
Zones 16-18	50	[1] 86	69		
Omaha:					
Zones 1-5	6	28	47	34	46
Zones 6-8	34	41	42		
Dallas: [3]					
Zones 1-2	8	26			
Houston: [3]					
Zone 1	16				
El Paso: [3]					
Zones 1-5	6	69	72	73	63
San Antonio: [3]					
Zone 1	6				
San Francisco:					
Zones 1-5	[2]	11	[1] 76	24	14
Zones 6-10	9	11	9	23	16
Zone 11	12				
Los Angeles:					
Zones 1-5	[2]	18	13	16	15
Zones 6-10	14	17	17	16	14
Zones 11-15	12	20	12	12	20
Zones 16-20	24	[1] 93	[1] 171	63	29
Salt Lake City:					
Zones 1-5	[2]	20	8	13	47
Zones 6-8	33	28	65		
Portland:					
Zones 1-5	[2]	28	34	12	45
Zones 6-9	43	12	51		
Seattle:					
Zones 1-5	[2]	22	34	13	8
Zones 6-9	10	23	12	35	

[1] The proposed maximum 1982 per stop charge is $75, nationwide. Thus, the per stop fee charged would be $75 instead of the figure shown, which is based on full cost of service to endpoints in that zone.

[2] Specific fees will apply to each institution, and a single all-inclusive fee may be charged (instead of separate per stop and bag charges).

[3] In Texas, Oklahoma and Louisiana, armored carrier service subject to tariff rates is offered to over-the-road endpoints that are not included among the zones listed. Contact your local Federal Reserve office for more information.

Proposed Fee Schedule—Cash Transportation by Registered Mail

Effective: January, 1982.

The fee for cash delivery to or from a Federal Reserve office via registered mail will be the actual cost of postage and insurance, up to a maximum. The maximum charge for registered mail delivery, one way either to or from a Federal Reserve office, will be $37.50 per shipment.

[FR Doc. 81-21575 Filed 7-22-81; 8:45 am]

BILLING CODE 6210-01-M

Citizens Bancorp, INc.; Formation of Bank Holding Company

Citizens Bancorp, Inc., Glasgow, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.12 per cent or more of the voting shares of Citizens Bank and Trust Company, Glasgow, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 16, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-21571 Filed 7-22-81; 8:45 am]

BILLING CODE 6210-01-M

North Fork Bancorporation, Inc.; Formation of Bank Holding Company

North Fork Bancorporation, Inc., Mattituck, New York, has applied for the Board's approval under section 3(a)(1) of the the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of the successor by merger to The North Fork Bank and Trust Company, Mattituck, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 16, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-21572 Filed 7-22-81; 8:45 am]

BILLING CODE 6210-01-M

Oppegard Agency, Inc.; Proposed Acquisition of Erskine Agency, Inc., Erskine, Minnesota

Oppegard Agency, Inc., Hinckley, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Erskine Agency, Inc., Erskine, Minnesota.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency located in a community with a population of less than 5,000. There activities would be performed from the offices of Applicant's subsidiary in Erskine, Minnesota, and the geographic area to be served is the town of Erskine, Minnesota, and the surrounding are within a 12-mile radius of the town. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should summit view in writing to the Reserve Bank to be received no later than August 15, 1981.

Board of Governors of the Federal Reserve System, July 16, 1981.

D, Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-21573 Filed 7-22-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-61]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Areawide Environmental Impact Statement (EIS) is intended to be prepared for Jacksonville, Onslow County, North Carolina as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the Federal Register a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C. July 14, 1981.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

Areawide EIS for Jacksonville, Onslow County, North Carolina

The U.S. Department of Housing and Urban Development, Atlanta Regional Office intends to prepare an Areawide Environmental Impact Statement for an anticipated growth area of Jacksonville and solicits information and comments for consideration in the Areawide EIS.

Description. The preliminary definition of the project area is as follows: that portion of the City of Jacksonville and Onslow County bounded by State Highway 258/24 to the West, State Highway 24 (LeJeune Boulevard) to the South, and all portions in between which are contained by a radius of 8 miles centered on the Jacksonville CBD.

Need. Due to the numerous HUD actions anticipated in the growth area of Jacksonville (Onslow County), North Carolina, the Department intends to prepare an Areawide Environmental Impact Statement (EIS) for that portion of the County lying generally to the north of the current City limits. Two Title X (Mortgage Insurance for Site Development) applications in this area have been suspended pending final completion of this EIS. These developments include the Piney Green Development (420 lots) and the White Oaks Estates (500 units). Although separately these developments do not exceed the HUD 500 unit threshold mandating an EIS, the potential aggregate of these and future developments will collectively pose probable, significant impacts to the local environment.

Scoping. HUD will hold two scoping meetings, the first was held in the Council Chambers of the Jacksonville City Hall, 206 Marine Blvd., Jacksonville, North Carolina and the second is scheduled to be held on or before August 10, 1981 at the HUD Greensboro Area Office, 415 North Edgeworth Street, Greensboro, North Carolina.

Comments. Comments should be forwarded within or or before August 10, 1981 to: Mr. John Ogden, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, R.I.E.A.T.—Room 834, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone Number (404) 221-5151 or (FTS) 242-5151.

[FR Doc. 81-21583 Filed 7-22-81; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. NI-62]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Countryside Subdivision, Rapid City, Pennington County, South Dakota. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies

planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., July 14, 1981.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

Environmental Impact Statement on Countryside Subdivision

The HUD Area Office in Denver, Colorado intends to prepare an EIS on Countryside Subdivision, described below and requests information and comments for consideration in the EIS.

Description. Approximately 735 dwelling units (single-family and multi-family) will be built in Pennington County, approximately 3½ miles southwest of Rapid City, South Dakota on the north side of Sheridan Lake Road.

Need. An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer or reject participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This Notice will also appear in a paper of local circulation in Rapid City, South Dakota.

Comments. Comments should be forwarded within 21 days of publication of this Notice in the **Federal Register** to: Mr. Carroll F. Goodwin, Area Environmental Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 81-21564 Filed 7-22-81; 8:45 am]

BILLING CODE 4210-01-M

Bureau of Indian Affairs

Washoe Indian Reservation, California and Nevada; Amendment to Ordinance Regulating the Introduction, Possession, and Sale of Intoxicating Beverages

July 7, 1981.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 18 U.S.C. 1161 (1976). I certify that the following amendment to the Washoe Liquor Ordinance published February 10, 1976, relating to the application of the Federal Indian liquor laws on the Washoe Indian Reservation of California and Nevada, was adopted on June 8, 1979, by the Washoe Tribal Council which has jurisdiction over the area of Indian country included in the amended ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Washoe Tribe of Nevada and California

Ordinance Legalizing the Introduction, Possession, Use and Consumption of Alcoholic Beverages. February 3, 1976.

Be it enacted by the Tribal Council of the Washoe Tribe of Nevada and California, pursuant to the authority vested in it by Article VI, Section I(f) of the Constitution of the Washoe Tribe of Nevada and California that the introduction, possession, use and consumption of alcoholic beverages shall be lawful within the exterior boundaries of those lands in the States of Nevada and California under the territorial jurisdiction of the Washoe Tribe of Nevada and California.

Provided, that such introduction, possession, use and consumption shall be in accordance with the following:

Section 1. It shall be unlawful to sell alcoholic beverages by the bottle, can or package, except on the premises of business operated and licensed by the Washoe Tribe.

Section 2. It shall be unlawful to use or consume any alcoholic beverages in a motor vehicle while such vehicle is being driven.

Section 3. It shall be unlawful to possess any open bottle, can, package, or container of alcoholic beverage in the passenger compartment of a motor vehicle when such vehicle is being driven.

Section 4. It shall be unlawful for any person actually under the influence of alcoholic beverages to possess, use or consume alcoholic beverages.

Section 5. It shall be unlawful for any person to furnish any alcoholic beverage to any person under the age of twenty-one (21) or to leave or to deposit any alcoholic beverages with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21) years.

Section 6. It shall be unlawful for any person under the age of twenty-one (21) years of age to introduce, possess, use or consume alcoholic beverages.

Section 7. Any Indian who violates any of the provisions of this ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not more than $50 or by imprisonment of not more than ten (10) days or both such fine and imprisonment: Provided, however, that any person under the age of eighteen (18) years may, in the discretion of the judge, be treated as a juvenile and have the charge(s) disposed of pursuant to 25 CFR 11.36.

Section 8. All ordinances, resolutions, or acts that have previously been enacted by the Washoe Tribal Council which are in conflict with any provision of this ordinance are hereby repealed.

Certification

It is hereby certified that the Washoe Tribe Council is the governing body of the Washoe Tribe of Nevada and California composed of nine (9) members who were present at a special meeting duly held on the 8th day of June, 1979 and the foregoing amendment was adopted by the affirmative vote of 6 for 0 opposed 3 abstentions pursuant to the authority contained in Article VI, Section I(f) of the Amended Constitution and Bylaws of the Washoe Tribe of Nevada and California.

Dated: July 3, 1979.

Clare L. Smokey,

Secretary/Treasurer.

[FR Doc. 81-21525 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Nos.: A-15984, A-15985, A-15986]

Arizona; Classification of Public Lands for State Indemnity Selection

In **Federal Register** document 81-15018 appearing on page 27562 of the issue for May 20, 1981, the following changes should be made for application A-15985:

Under T. 3 S., R. 4 W., Section 11: Lots 1-15, 25, 26, 27, 30-35, 37-42, 45, 46, 47, 64, 66-70, 74-78, 81-86, N½NE¼, SW¼, S½SE¼, S½S½SE¼ should be Lots 1-15, 25, 26, 27,

30-35, 37-42, 45, 46, 47, 64, 66-70, 74-78, 81-86, N½NE¼, S½SE¼SW¼, S½S½SE¼.

M. J. Schnitker,

Acting District Manager.

[FR Doc. 81-21532 filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Release of the Dillon Mesa Wilderness Inventory Unit From the Wilderness Review Process

I hereby announce my final revised intensive inventory decision for the Dillon Mesa wilderness inventory unit (CO-030-063) under the authority of Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), in accordance with the guidelines in the September 27, 1978 BLM *Wilderness Inventory Handbook* and Organic Act Directive No. 78-61, Change 3, and Instruction Memorandum No. 81-451. This notice also announces a protest period on my final intensive wilderness inventory decision for Dillon Mesa which begins on the date of this announcement and ends August 20, 1981.

The Dillon Mesa unit was originally identified as a 2,520 acre Wilderness Study Area as these BLM lands were bounded by U.S. Forest Service RARE II lands proposed for wilderness designation. Pub. L. 96-560, commonly referred to as the Colorado Wilderness Act, released these contiguous U.S. Forest Service lands from further wilderness consideration on December 22, 1980. Therefore, Dillon Mesa is no longer contiguous to lands under wilderness study for possible designation within the National Wilderness Preservation System.

This notice hereby rescinds my previous decision on Dillon Mesa as announced by Publication in the **Federal Register**, Vol. 45, No. 222, Friday, November 14, 1980 and Vol. 46, No. 2, Monday, January 5, 1981. The final intensive wilderness inventory decision on Dillon Mesa will become effective on August 20, 1981.

Persons wishing to protest my decision announced herein must file a written protest with the Colorado State Director, Colorado State Office, Bureau of Land Management, 2000 Arapahoe Street, Denver, Colorado 80205, on or before 4:00 p.m. August 20, 1981. Only those protests received by the Colorado State Office by the time and date specified will be accepted. The protest must include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated. The State Director will issue a written decision on any protest which is filed according to the above requirements and will publish a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the State Director's decision on a written protest may appeal such decision under the provisions of 43 CFR Part 4. Information on the Dillon Mesa wilderness inventory unit can be obtained by contacting BLM personnel at the following location: Montrose District Office, 249-7791, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81402; District Manager: Marlyn V. Jones, Wilderness Specialist: Jon Wesley Sering.

In Denver contact: Colorado State Office, 2000 Arapahoe Street, Denver, Colorado 80205; State Wilderness Coordinator: Harold Belisle, 837-3393.

Dated: July 21, 1981.

George C. Francis,

State Director, Colorado, Bureau of Land Management, Denver, Colorado.

[FR Doc. 81-21529 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Advisory Board will be held September 2, 1981. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District Bureau of Land Management Office, West Highway 10-12, Miles City, Montana.

The agenda is as follows:

(1) Allotment Management Plans

(a) Resource Management Plan status

(b) Environmental Impact Statement status

(2) Range improvements for fiscal year 1982

(3) Draft federal range management policy

The meeting is open to the public. The public may make oral statements before the Grazing Advisory Board or file written statements for the board's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,

District Manager.

[FR Doc. 81-21531 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 46404]

New Mexico; Proposed Withdrawal and Reservation of Lands

July 15, 1981.

The Corps of Engineers, Department of the Army, on June 29, 1981, filed application Serial No. NM 46404, for the withdrawal and reservation of the following described lands:

New Mexico Principal Meridian

T. 17 S., R. 8 E.,

A strip of land situate in the N½ of Section 27 and the NE¼ of Section 28, being 5,026.63 feet long and 150.00 feet wide, lying 60.00 feet on the northerly side of and 90.00 feet on the southerly side of the following described centerline:

Beginning from a point on the west boundary of Holloman Air Force Base, said point bears S 80° 22′ 35″ W, a distance of 1,337.75 feet from the section corner common to Sections 22, 23, 26 and 27;

Thence S 41° 46′ 42″ W a distance of 55.86 feet to a point;

Thence S 41° 41′ 37″ W a distance of 916.57 feet to a point;

Thence S 83° 24′ 21″ W a distance of 3,544.25 feet to a point;

Thence N 39° 05′ 40″ W a distance of 510 feet to the Point of Termination.

A strip of land 1,433.00 feet in length and 20.00 feet in width situate in the NE¼ of Section 21. Commencing from the section corner common to Sections 15, 16, 21 and 22, south 56° 30′ 00″ west a distance of 2,080.00 feet to a point; thence south 63° 45′ 00″ east a distance of 450.00 feet to the true Point of Beginning for said tract;

Thence continuing S 63° 45′ 00″ E a distance of 470.00 feet to a point;

Thence S 14° 00′ 00″ E a distance of 718.00 feet to a point;

Thence S 10° 00′ 00″ E a distance of 245.00 feet to the Point of Termination for this parcel.

A tract of land situate in the S½S½NE¼ of Section 21. Commencing from the section corner common to Sections 15, 16, 21 and 22, thence south 56° 30′ 00″ west a distance of 2,080.00 feet to a point; thence south 63° 45′ 00″ east a distance of 920.00 feet to a point; thence south 14° 00′ 00″ east a distance of 718.00 feet to a point; thence south 10° 00′ 00″ east a distance of 245.00 feet to the true Point of Beginning, said Point of Beginning being the northeast corner of said parcel;

Thence continuing S 10° 00′ 00″ E a distance of 175.00 feet to a point, said point being the southeast corner of said parcel;

Thence S 89° 52′ 00″ W a distance of 660.00 feet to a point, said point being on the 16th line of Section 21;
Thence N 00° 42′ 00″ E along the east 16th line of Section 21, a distance of 175.00 feet to a point, said point being the northwest corner of said parcel;
Thence N 89° 52′ 00″ E a distance of 620.00 feet to the Point of Termination for said parcel.
A tract of land situate in the NE¼ and N½SE¼ of Section 28, being more particularly described as follows:
All of the W½NE¼ except the SW¼SW¼SW¼NE¼, W½E½NE¼, SW¼SW¼NE¼NE¼NE¼, W½W½SE¼NE¼NE¼, W½W½E½SE¼NE¼, NE¼NW¼NE¼NW¼SE¼, N½NE¼NE¼NW¼SE¼, N½NW¼NW¼NE¼SE¼, N½NE¼NW¼NE¼SE¼, SE¼NE¼NW¼NE¼SE¼, NE¼SE¼NW¼NE¼SE¼, NW¼SW¼NE¼NE¼SE¼, W½NW¼NE¼NE¼SE¼.
Sec. 21, E½NW¼NE¼.
The area described contains approximately 173.69 acres in Otero County.

The applicant desires the area for the use and benefit of the U.S. Department of the Air Force, and will be operated as a sewage treatment and disposal system for Holloman Air Force Base, New Mexico.

On or before August 17, 1981, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned before August 17, 1981. Upon a determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing.

Public hearings are scheduled and conducted in accordance with Bureau of Land Management Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will ensure that the area sought is the minimum essential to meet the desired needs while providing for the maximum concurrent utilization of the lands for other purposes.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Subject to valid existing rights, the lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall continue for a period of 2 years from the date of publication of the notice in the **Federal Register**, unless sooner terminated by action of the Secretary of the Interior. If the withdrawal is approved by the Congress, it will be segregated for a period of 20 years from date of approval.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya,
Chief, Division of Technical Services.

[FR Doc. 81-21530 Filed 7-22-81; 8:45 am]
BILLING CODE 4316-84-M

Grazing Environmental Impact Statement for Henry Mountain Planning Area; Public Workshop

July 16, 1981.

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of public workshops. Notice of intent to prepare grazing environmental impact statement for Henry Mountain Planning Area.

SUMMARY: Notice is hereby given that the Bureau of Land Management will hold public workshops on August 25, 1981 at the Hanksville Elementary School, Hanksville, Utah, and August 26, 1981 at the Salt Palace, Room 220, in Salt Lake City, Utah. Both workshops will begin at 7:30 p.m.

The purpose of the workshop is:

(1) *Discussion and Public Comment on resource management alternatives for the Henry Mountain Planning Area.* The alternatives will address management of minerals, recreation, forestry, fire, livestock grazing, wildlife habitat, soil, and water.

(2) *Discussion and public comment on wilderness suitability reports for each of 10 wilderness study areas in the Henry Mountain Resource Area.* These 10 wilderness study areas are:

Henry Mountain Planning Area:
- UT-050-236A, Dirty Devil
- UT-050-236B, French Spring-Happy Canyon
- UT-050-237, Horseshoe Canyon
- UT-050-238, Blue Hills-Mt. Ellen
- UT-050-241, Fiddler Butte
- UT-050-242, Bull Mountain
- UT-050-247, Little Rockies
- UT-050-248, Mt. Pennell
- UT-050-249, Mt. Hilliers

Parker Mountain Planning Unit:
- UT-050-221, Fremont Gorge

The wilderness suitability reports include an analysis of at least four alternatives for each Wilderness Study Area. These alternatives are (1) all wilderness, (2) partial wilderness, (3) no wilderness, (4) no action.

(3) *Scoping of issues and alternatives for an Environmental Impact Statement to be prepared on the rangeland program in the Henry Mountain Planning Area.*

Background

The Henry Mountain Planning Area consists of 1,621,512 acres of BLM-administered land in Wayne and Garfield Counties, Utah. BLM also administers the livestock grazing program on the adjacent Glen Canyon National Recreation Area and Capitol Reef National Park.

Comments

Comments will be accepted at the public workshops. For persons unable to attend the workshops, public comment packets will be available on request after August 25, 1981 from the Public Information Officer, Richfield District Office, Bureau of Land Management, Box 768, Richfield, Utah 84701, or telephone (801) 896-8221. Written comments will be accepted until September 28, 1981 at the Richfield District Office.

FOR FURTHER INFORMATION CONTACT: Public Information Office, Bureau of

Land Management, Box 768, Richfield, Utah 84701.

Donald L. Pendleton,

District Manager.

[FR Doc. 81-21561 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; Moon Lake Power Plant Decision Issued by BLM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces BLM's decision authorizing issuance of rights-of-ways and other federal land uses associated with construction of the Moon Lake Power Plant Project (Units 1 and 2) northwest of Bonanza in Uintah County by Deseret Generation and Transmission Cooperative. The project also involves the development and operation of an underground coal mine northeast of Rangely, Colorado, by Western Fuels-Utah, Inc.

The BLM authorizations included approval of the following: land sale and rights-of-way for the Bonanza power plant site; a railroad right-of-way for transportation of coal from the mine in Colorado to power plant site in Utah; rights-of-way for a pipeline from the Green River to the power plant; rights-of-way for a pipeline from the White River in Colorado to the coal mine; rights-of-way for one 345-kilovolt transmission line from the power plant to a proposed substation near Mona, Utah, in Juab County; approval of a double circuit design for the 345-kilovolt line; and approval of use of public lands for three routes proposed by the applicant for a 138-kilovolt transmission system.

The BLM decision follows review of the final environmental impact statement (FEIS) issued May 1, 1981. The FEIS was the result of more than a year of study by several agencies and consultants. It was prepared by BLM's Richfield (Utah) District and the Rural Electrification Administration (REA), with the assistance of the Forest Service (FS), Office of Surface Mining (OSM), and other cooperating agencies.

The BLM Decision Option Document and Record of Decision are available to the public from the following offices:

BLM Washington Office (W-332), Board of Trade Building—Room 508, 1129 20th Street, N.W., Washington, D.C. 20240 phone (202)343-5441.

BLM Utah State Office, Project Management Staff, 136 East South Temple, Salt Lake City, Utah 84111 phone (801)524-5645.

FOR FURTHER INFORMATION CONTACT: Dell Waddoups, BLM, Utah State Office (801) 524-5645.

Dated: July 16, 1981.

Dean Stepanek,

Acting Utah State Director.

[FR Doc. 81-21563 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 44130 OK]

New Mexico; Request for Public Comment

July 17, 1981.

Department of the Interior, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501.The Bureau of Land Management requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale.

The coal resource to be evaluated consists of all the coal mineable by surface methods from the Upper and Lower Hartshorne coal beds in the following described land located south of the town of Milton in Le Flore County, Oklahoma:

T. 8 N.,R. 23 E., I.M., Oklahoma
Sec. 21: SE¼NE¼, N½NE¼SE¼;
Sec. 22: N½NE¼, N½SW¼NE¼, S½NW¼.
Containing 240 acres.

The estimated total strippable reserves are 162,000 short tons. The average coal quality of both seams in this land is as follows (as received): BTU-13,083; sulfur—2.15 percent; and ash—7.17 percent. The combined Upper Hartshorne and Lower Hartshorne coal beds average 5.3 feet thick over 28 acres of the described lands.

The public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and to the Conservation Manager, South Central Region, Conservation Division, U.S. Geological Survey, P.O. Box 26124, Albuquerque, New Mexico 87125 to arrive no later than 30 days of the date of this notice.

Larry Woodard,

Associate State Director.

[FR Doc. 81-21562 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-3378]

Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I-3378, for withdrawal and reservation of lands was published as **Federal Register** Document No. 70-2376 on page 3826 of the issue for February 27, 1970. The Bureau of Reclamation has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 8:00 a.m. on August 20, 1981 relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 1 N., R. 43 E.
Sec. 1, Lots 5, 6, 9, 10, 11, 30, 43, 44, 45, 46, 48, 49, 50, 51, 55, 58, 61, 66, 69, 70, 73, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 91, 92, 93, 96.

The area described aggregates 70.74 acres in Bonneville County.

William E. Ireland,

Acting Chief, Branch of L&M Operations.

[FR Doc. 81-21560 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Montana; Adoption of Regional Lease Target

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Under the Federal coal management regulations (43 CFR 3420.3–2(j)), the Secretary of the Interior has the responsibility for establishing a Federal coal leasing target for each of the Federal coal production regions. This notice is to inform the public that on June 22, 1981, the Assistant Secretary for Land and Water Resources, Department of the Interior, adopted a leasing target of 1.4 to 1.5 billion tons of recoverable Federal coal reserves for the Powder River Federal Coal Production Region. The 1.4 to 1.5 billion ton level will be reflected as the preferred alternative in the Regional Environmental Impact Statement. The target is to achieve 1990 production levels and to promote competition in the region.

The target was arrived at after analyzing potential production from current and projected mining operations in the region, after extensive public hearings, and after consultation with State and local officials and the Department of Energy and Justice.

FOR FURTHER INFORMATION CONTACT: Robert O. Buffington, Regional Coal Team Chairperson, 208–324–1401, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Boise, Idaho 83724, or J. Stan McKee, Project Manager, 307–778–2220, extension 2413, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

F. William Eikenberry,

Associate Director.

[FR Doc. 81–21564 Filed 7–22–81; 8:45 am]

BILLING CODE 4310–84–M

Wyoming and Montana; Powder River Regional Coal Team Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(b), the Powder River Regional Coal Team will meet October 2, 1981, to formally review the Draft Environmental Impact Statement and all public comments received. The team will also review their selection of alternatives.

Public attendance at the regional coal team meeting is welcome and encouraged. The opportunity for the public to address the regional coal team will be provided during the meeting.

DATE: The regional coal team meeting will be held October 2, 1981, in Billings, Montana. The meeting is expected to last 1 day and will begin at 9 a.m.

ADDRESS: The meeting will held in the Prospector Room at the Ramada Inn, I–90 and Mullowney Lane, Billings, Montana 59102.

FOR FURTHER INFORMATION CONTACT: Robert O. Buffington, Regional Coal Team Chairperson, 208–324–1401, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Boise, Idaho 83724, or J. Stan McKee, Project Manager, 307–778–2220, extension 2413, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

F. William Eikenberry,

Associate Director.

[FR Doc. 81–21565 Filed 7–22–81; 8:45 am]

BILLING CODE 4310–84–M

Salt Lake District Grazing Advisory Board

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Salt Lake District Grazing Advisory Board will be held on August 4 and 5, 1981.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management, Randolph, Utah.

The purpose of the meeting will be to give advice and recommendations for the expenditure of the district's Range Betterment Funds and review and to give recommendations on Allotment Management Plans that are being developed.

The meeting is open to the public. Interested persons may make oral statements between 10:00 to 11:00 a.m. on August 4th or file written statements for board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, UT 84119, by July 31, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Date Signed: July 13, 1981.

Sammy J. St. Clair,

Acting District Manager.

[FR Doc. 81–21533 Filed 7–22–81; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Intent of the U.S. Fish and Wildlife Service To Prepare Regional Resource Plans

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service intends to gather and analyze information necessary to develop Regional Resource Plans. During this planning process the Service will encourage public participation and interagency coordination; opportunities will be provided by each Regional Office.

DATE: Plan development will begin August 1, 1981, and final plans are scheduled for completion by March 31, 1983.

FOR FURTHER INFORMATION CONTACT: Those persons, organizations, or agencies who desire additional information shold contact the persons listed below.

Region 1

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 N.E. Multnomah St., Portland, OR 97232, FTS: 429–6118, Commercial: 503/231–6118.

States Which Are Included in Region 1

Washington, Oregon, California, Nevada, Idaho, and Hawaii.

Region 2

Regional Director, U.S. Fish and Wildlife Service, 500 Gold Ave, SW., P.O. Box 1306, Albuquerque, NM 87103, FTS 474–2321, Commercial: 505/766–2321

States Included in Region 2

Texas, New Mexico, Oklahoma, and Arizona.

Region 3

Regional Director, U.S. Fish and Wildlife Service, Federal Bldg., Fort Snelling, Twin Cities, MN 55111, FTS: 725–3563, Commercial: 612/725–3563.

States Included in Region 3

Indiana, Michigan, Ohio, Iowa, Illinois, Missouri, Minnesota, and Wisconsin.

Region 4

Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Bldg., 75 Spring St., SW., Atlanta, GA 30303, FTS: 242–3588, Commercial: 404/221–3588.

States Included in Region 4

Florida, Alabama, Georgia, Arkansas, Louisiana, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands.

Region 5

Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, MA 02158 FTS: 829–9200, Commercial: 617/965–5100, X200.

States Included in Region 5

Delaware, Maryland, Virginia, West Virginia, District of Columbia, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, Pennsylvania, and New York.

Region 6

Regional Director, U.S. Fish and Wildlife Service, 134 Union Blvd., P.O. Box 25486, Denver Federal Center, Denver, CO 80225, FTS: 234–2209, Commercial: 303/234–2209.

States Included in Region 6

Montana, North Dakota, Wyoming, Nebraska, South Dakota, Kansas, Colorado, and Utah.

Region 7

Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Ankorage, AK 99503, FTS: (Seattle) 399–0150, Commercial: 907/263–3534.

States Included in This Region

Alaska.

SUPPLEMENTARY INFORMATION: Regional resource plans (RRPs) serve in the Fish and Wildlife Service Planning System as a critical link, trying national direction with field operational activities. Regional resource planning distills broad and complex national desires into meaningful guidance applicable to a particualr geographic area. Specific outputs of this planning effort includes: regional fish and wildlife objectives; the identification of problems impeding their accomplishment; a statement of alternative means (strategies) to resolve these probelms, and a list of specific operational activities to implement the strategies. The result is a solid analytical base for decision-making and an excellent tool to communicate decisions, once they are made. The RRP should facilitate the exchange of information with the Service and coordination with other agencies and interested public. RRPs will also form the basis for budget development.

F. Eugene Hester,

Acting Deputy Director.

[FR Doc. 81–21541–filed 7–22–81; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Safety and Offshore Oil; Correction

AGENCY: Geological Survey, Interior.

ACTION: Erratum notice.

SUMMARY: The U.S. Geological Survey, in consultation with the U.S. Coast Guard, is conducting a study of the adequacy of existing safety and health regulations and of the technology available for exploration, drilling, development, and production of oil and gas on the Outer Continental Shelf (OCS). The study is required by section 21 of the OCS Lands Act (43 U.S.C. 1357). By Notice published in the **Federal Register** on June 25, 1981 (46 FR 32885), public comments concerning the contents of the study were sought. However, due to an inadvertent error, the Notice was headlined as pertaining to 30 CFR Chapter II and was labelled an "Advanced Notice of Proposed Rulemaking." The heading should have read solely "Request for Comments."

Robert L. Rioux,

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division.

[FR Doc. 81–21103–filed 7–22–81; 8:45 am]

BILLING CODE 4310–13–M

Office of the Secretary

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This Notice provides the names of those individuals who have been appointed to serve as members of the Department of the Interior Performance Review Boards. The publication of these appointments is required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454; 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective on July 23, 1981.

FOR FURTHER INFORMATION CONTACT:

Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, Room 5201, 1800 C Streets, NW., Washington, D.C. 20240, Telephone number 343–6761.

Departmental PRB

Donald Paul Hodel, Chairperson
J. Robinson West (NC)
Arnold Petty (Career)
Stanley Hulett (NC)
Emily DeRocco (NC)
Sidney L. Mills (Career)
F. Eugene Hester (Career)

Office of the Secretary

Steven Shipley (NC), Chairperson
William Horn (NC)
Douglas P. Baldwin (NC)
Newt Frishberg (Career)
John Fulbright (Career)
Derrell P. Thompson (Career, Field)
Diane K. Morales (NC)

Assistant Secretary—Indian Affairs

Theodore Krenzke (Career), Chairperson
Roy H. Sampsel (NC)
Stanley Speaks (Career, Field)
Maurice W. Babby (Career)

Solicitor

William H. Satterfield (NC), Chairperson
Donald Tindal (NC)
Raymond Sanford (Career, Field)
W. Pierce Elliott (Career)

Assistant Secretary—Policy, Budget and Administration

Richard R. Hite (Career), Chairperson
Morris Simms (Career)
Alan Powers (Career)

Assistant Secretary for Fish and Wildlife and Parks

Cleo F. Layton (Career), Chairperson
J. Craig Potter (NC)
Howard Larsen (Career, Field)
Robert Baker (Career, Field)
Ira Hutchison (Career)
Ronald Lambertson (Career)

Assistant Secretary—Energy and Minerals

William P. Pendley (NC), Chairperson
Doyle Frederick (Career)
Ed Grant (Career)
Frank Block (Career, Field)
J. Stephen Griles (NC)
Dean K. Hunt (NC)
Betty A. Miller (Career)

Assistant Secretary—Land and Water Resources

David Russell (NC), Chairperson
Ed Hastey (Career)
Eugene Hinds (Career)
George Francis (Career, Field)
David Houston (NC)
James Flannery (Career)
Sandra Blackstone (NC)

Dated: July 13, 1981.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

[FR Doc. 81-21534 Filed 7-22-81; 8:45 am]

BILLING CODE 4310-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-5-106

Decided: July 14, 1981.

MC 29328 (Sub-11), filed June 29, 1981. Applicant: SCHIEK MOTOR EXPRESS, INC., 90 Casseday Ave., Joliet, IL 60432. Representative: Anthony E. Young, 29 LaSalle St., Suite 350, Chicago, IL 60603, 312-782-8880. Transporting *metal and metal products*, between the facilities used by Alumax, Inc., at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 43269 (Sub-75), filed June 30, 1981. Applicant: WELLS CARGO, INC., 1775 East 4th St., Reno, NV 89512. Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505, 702-329-0061. Transporting *chemicals and related products*, between points in NV on the one hand, and, on the other, points in AR, TX and WY.

MC 109448 (Sub-33), filed June 29, 1981. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turaon, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and air-conditioning units, between St. Louis, MO, on the one hand, and, on the other, points in the U.S.

MC 114028 (Sub-40), filed July 1, 1981. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *chemicals*, between points in the U.S. under continuing contract(s) with Chemidyne Corp. of Macedonia, OH.

MC 120888 (Sub-3), filed June 30, 1981. Applicant: SHEPARD'S EXPRESS, INC., 207 Mill St., Leominster, MA 01453. Representative: Steven H. Dorne, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760, 301-840-8565. Transporting *general commodities* (except classes A and B explosives), between points in NH and MA, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 123389 (Sub-62), filed June 30, 1981. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, 612-227-7731. Transporting *food and related products*, between points in Saline County, MO, on the one hand, and, on the other, points in the U.S.

MC 134798 (Sub-10), filed June 24, 1981. Applicant: BLAIR CARTAGE, INC., P.O. Box 252, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, (614) 224-2477. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The B.F. Goodrich Company of Akron, OH.

MC 140729 (Sub-7), filed June 5, 1981. Applicant: RUSS EDIGER TRUCKING, INC., 4001 Martindale Rd., Sioux Falls, SD 57107. Representative: Russ Ediger (same address as applicant), (605) 336-7553. Transporting *food and related products*, between points in Pennington County, SD, on the one hand, and, on the other, points in MN, NE, and WY.

MC 142268 (Sub-48), filed June 18, 1981. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada NOR 1GO. Representative: Thaddeus A. Gorski (same address as applicant), (519) 948-4121. Transporting *alcoholic beverages* (a) between points in Wayne County, MI, Hartford County, CT, San Mateo County, CA, and McCracken County, KY, and (b) between points in part (a), on the one hand, and, on the other, points in the U.S.

MC 144398 (Sub-11), filed July 1, 1981. Applicant: WAYNE TRANSPORTS, INC., Box 67, Milaca, MN 56353. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612-333-1341. Transporting *commodities in bulk*, between points in MT, WY, ND, SD, NE, MN, IA, MO, WI, IL, MI, and IN.

MC 144779 (Sub-9), filed July 1, 1981. Applicant: AHA, INC., Box 158, Panguitch, UT 84759. Representative: Glen M. Hatch, 80 West Broadway, Suite 300, Salt Lake City, UT 84101, 801-328-1666. Transporting (1) *furniture and fixtures*, and (2) *metal products*, between points in Iron County, UT, on the one hand, and, on the other, points in Maricopa County, AZ under continuing contract(s) with Morton Metalcraft of Cedar City, UT.

MC 144858 (Sub-46), filed June 29, 1981. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102, (402) 348-0832. Transporting *such commodities* as are dealt in by manufacturers and distributors of alcoholic beverages, between points in the U.S.

MC 145228 (Sub-2), filed June 29, 1981. Applicant: AUGUST D. BADALI, JR., d.b.a. A & M CARTAGE, 17401 Odell St., Tinley Pk., IL 60477. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236-8225. Transporting *fly ash*, (a) between Chicago, IL, on the one hand, and, on the other, points in MI, MS, WI, and AL, and (b) between points in Lake County, IL, on the one hand, and, on the other, points in WI.

MC 145468 (Sub-48), filed June 29, 1981. Applicant: KSS TRANSPORTATION CORP., Route 1 & Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397-7033. Transporting *such commodities* as are dealt in by manufacturers and distributors of printed matter, paper and paper products, between points in the U.S., under continuing contract(s) with Baldwin Paper Company, Division, Alco Standard Corporation, of New York, NY.

MC 145829 (Sub-29), filed June 30, 1981. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435-7140. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Julius J. Schaefer Associates, of Englewood, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

Volume No. OPY-5-107

Decided: July 14, 1981.

MC 147259 (Sub-17), filed June 29, 1981. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 Van Dam Rd., South Holland, IL 60473, 312-596-9200. Transporting *printed matter*, between points in the U.S.

MC 148018 (Sub-7), filed June 29, 1981. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O.B. 921, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. B. 1576, Boise, ID 83701, (208) 343-3071. Transporting (1) *building materials*, and (2) *lumber and wood products* (except those in (1)), between points in ID, OR, and WA, on the one hand, and, on the other, points in the U.S.

MC 153509 (Sub-3), filed June 25, 1981. Applicant: KENTUCKY DISPATCH, INC., 3303 Camp Ground Road, Louisville, KY 40216. Representative: James B. Murphy, Suite 102, Interchange Bldg., 835 West Jefferson St., Louisville, KY 40202, (502) 584-5519. Transporting *general commodities* (except classes A and B explosives), between Louisville, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153759 (Sub-2), filed June 22, 1981. Applicant: GLOUCESTER DISPATCH, INC., 150 Eastern Ave., Gloucester, MA 01930. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617-235-5571. Transporting *foodstuffs*, between points in the U.S. under continuing contract(s) with The Gorton Group, a division of General Mills, Inc., of Minneapolis, MN.

MC 155828 (Sub-1), filed June 25, 1981. Applicant: PAC-TRANS, INC., 1900 Powell St., Emeryville, CA 94608. Representative: Donald E. Cross, 918 16th Street NW., Suite 700, Washington, D.C. 20006, (202) 785-3700. Transporting *general commodities* (except classes A and B explosives), between points in CA, OR, WA, NV, and ID.

MC 156069, filed June 29, 1981. Applicant: TRANSITALL SERVICES, INC., Two North Riverside Plaza, Chicago, IL 60606. Representative: Anthony E. Young, 29 South LaSalle St., Chicago, IL 60603, (312) 782-8880. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with American Container Express, Inc., of Chicago, IL.

MC 156379, filed June 26, 1981. Applicant: RONALD HAGEMAN, d.b.a. HAGEMAN ENTERPRISES, R.R. #1, Box 259-22, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682-8154. Transporting *trailers* designed to be transported by passenger automobiles, and *buildings* complete or in sections, mounted on wheel undercarriages, between points in IA, IL, and MO.

MC 156698, filed June 22, 1981. Applicant: HAROLD MYERS AND VIOLA MYERS, d.b.a. HAROLD MYERS TRUCKING, 28011 228th Ave. S.E., Maple Valley, WA 98038. Representative: Harold Myers (same address as applicant), (206) 432-9997. Transporting *concrete products*, between points in the U.S., under continuing contract(s) with Centrecon, Inc., of Everett, WA.

MC 156719, filed June 22, 1981. Applicant: LEE TRANSPORT, INC., 34 Troy St., Auburn, ME 04210. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773-5651. Transporting *general commodities* (except classes A and B explosives), between points in ME, NH, and VT, on the one hand, and, on the other, those points in the U.S. in and east of OH, WV, VA, and NC.

MC 156899, filed June 26, 1981. Applicant: CAROL DIXON, d.b.a. CAD BUILDING SUPPLIES, 9715 N.E. Prescott, Portland, OR 97220. Representative: Carol Dixon (same address as applicant), 503-257-9152. Transporting (1) *lumber and wood products;* (2) *pulp, paper, and related products;* (3) *building materials;* (4) *machinery;* and (5) *transportation equipment*, between points in AL, CA, ID, MS, OR, and WA.

MC 156939, filed June 25, 1981. Applicant: KANATA CARRIERS, INC., 2203 Dunwin Dr., Mississauga, Ontario, Canada L5L 1X2. Representative: Ronald N. Cobert, 1730 M St., NW, Suite 501, Washington, D.C. 20036, 202-296-2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Interamerican Transport Systems, Inc., of Mississauga, Ontario, Canada.

MC 156949, filed June 30, 1981. Applicant: SHAW BUS SERVICE, INC.,

6523 Baltimore National Pike, Baltimore, MD 21228. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, (301) 840–8565. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at Baltimore, MD, and points in the commercial zone, and extending to points in the U.S.

MC 156958, filed July 1, 1981. Applicant: MAGIC CARPET TOURS, INC., 360 W. Office Bldg., Suite 212, 7206 Hull St. Road, Richmond, VA 23235. Representative: Charlotte June Smith (same address as applicant), 804–745–3396. To operate as a *broker* in Chesterfield, Hanover, Powhatan and Henrico Counties, VA arranging for the transportation of passengers and their baggage, by motor vehicle, between points in VA on the one hand, and, on the other, points in the U.S.

MC 156988, filed June 30, 1981. Applicant: CLIFFORD VAN DE BRAKE, Rt. 3, Box 3752, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *malt beverages and wine*, between points in Umatilla, Morrow, Baker and Union Counties, OR, and Walla Walla County, WA, on the one hand, and, on the other, points in CA.

MC 156989, filed July 2, 1981. Applicant: ADVANCED TRANSPORTATION SYSTEMS, INC., 18 Tremont St., Boston, MA 02108. Representative: Angelo P. Catanzaro (same address as applicant), (617) 426–7100. Transporting *general commodities* (except classes A and B explosives), between points in MA, ME, NH, VT, CT, RI, NY, NJ, and PA, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–5–108

Decided: July 15, 1981.

MC 488 (Sub-27), filed June 29, 1981. Applicant: BREMAN'S EXPRESS COMPANY, 318 Haymaker Rd., Monroeville, PA 15146. Representative: Joseph E. Breman, 700 Fifth Ave. Bldg., 5th Floor, Pittsburgh, PA 15219, (412) 281–1980. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 989 (Sub-42), filed June 29, 1981. Applicant: IDEAL TRUCK LINES, INC., 418 East Holme, Norton, KS 67654. Representative: Ed J. Copenhaver, 6785 East 50th Ave., Commerce City, CO 80022, (303) 287–5519. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Salina, KS and Colby, KS over Interstate Hwy 70, serving all intermediate points and the off-route points of Hill City and Oakley, KS.

MC 108649 (Sub-21), filed June 29, 1981. Applicant: STURM FREIGHTWAYS, INC., 8919 North University, Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 140389 (Sub-98), filed June 29, 1981. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027, (404) 363–8584. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, and NM, on the one hand, and, on the other, Chattanooga, TN, points in Warren County, KY, and points in GA, NC, and TX.

MC 143059 (Sub-182), filed June 29, 1981. Applicant: MERCER TRANSPORTATION CO., INC., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant), (502) 584–2301. Transporting *general commodities* (except classes A and B explosives), between those points in KY on and west of Interstate Hwy 75 and those in IN on and south of U.S. Hwy 50, on the one hand, and, on the other, points in the U.S.

MC 152238 (Sub-15), filed July 2, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: John R. Harleman (same address as applicant), 916–436–2266. Transporting *lumber and wood products*, between points in CA, OR, WA, ID, MT, and WY, on the one hand, and, on the other, points in the U.S.

MC 154728 (Sub-1), filed July 6, 1981. Applicant: HARVEY G. ALLEN, d.b.a. ALLEN TRUCKING COMPANY, 11603 Kerry Lane, Mablevale, AR 72103. Representative: Thomas B. Staley, 1550 Tower Bldg. Little Rock, AR 72201, 501–375–9151. Transporting *posts, poles and pilings and pole line hardware*, between points in MS, LA, OK, AR, and MO on the one hand, and, on the other, points in LA, AR, TX, OK, KS, IA, and MO.

MC 155529, filed June 26, 1981. Applicant: G & D TRANSPORT, INC., 33 Spring Hollow Lane, Westerville, OH 43081. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215 (614) 464–4103. Transporting (1) *mercer commodities*, between points in Starke County, OH, on the one hand, and, on the other, points in the U.S., (2) *such commodities* as are dealt in or used by manufacturers of buses, between points in Ashland and Delaware Counties, OH, on the one hand, and, on the other, points in the U.S., and (3) *such commodities* as are dealt in or used by manufacturers and distributors of clay, concrete, glasses, or stone products, between Franklin County, OH, on the one hand, and, on the other, points in U.S.

MC 156158 (Sub-1), filed July 2, 1981. Applicant: PULLEY CONTRACT CARRIERS, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, 205 West Touhy Ave., Park Ridge, IL 60068, 312–698–2235. Transporting *such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, between points in the U.S. under continuing contract(s) with General Foods Corporation of White Plains, NY; Jeno's Inc., of Duluth, MN; Standard Brands, Inc., of New York, NY; Friday Canning Corporation of New Richmond, WI and The Pillsbury Company of Minneapolis, MN.

Volume No. OPY–5–110

Decided: July 16, 1981.

MC 98869 (Sub-6), filed June 30, 1981. Applicant: KOSCHKEE TRANSFER, INC., Route 1, Fennimore, WI 53809. Representatives: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256–7444. Over Regular Routes, transporting *general commodities* (expect classes A and B explosives), between Prairie due Chien, WI and Dubuque, IA, (a) from Prairie due Chien over U.S. Hwy 18 to junction WI Hwy 35, then over WI Hwy 35 to junction WI Hwy 133, then over WI Hwy 133 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Dubuque, and return over the same route, and (b) from Prairie du Chien over U.S. Hwy 52, then over U.S. Hwy 52 to junction IA Hwy 3, then over IA Hwy 3 to Dubuque, and return over the same route, serving all intermediate points in (a) and (b) above; and over irregular routes, transporting *general commodities* (expect classes A and B explosives), between points in St. Croix, Pierce, Dunn, Pepin, Buffalo, Eau Claire, Jackson, Trempeleau, La Crosse, Monroe, Juneau, Adams, Vernon, Crawford, Richland, Sauk, Columbia, Grant, Iowa, Dane, Lafayette, Green, and Rock Counties, WI; Boone, Winnebago, Ogle, Lee, Jo Daviess, Stephenson, Carroll, Whiteside, Henry, and Rock Island Counties, IL; Worth, Mitchell, Howard, Winneshiek,

Allamakee, Cerro Gordo, Floyd, Chickasaw, Wright, Franklin, Butler, Bremer, Fayette, Clayton, Hamilton, Hardin, Grundy, Blackhawk, Buchanan, Delaware, Dubuque, Boone, Story, Marshall, Tama, Benton, Linn, Jones, Jackson, Dallas, Polk, Jasper, Poweshiek, Iowa, Johnson, Muscatine, Cedar, Scott and Clinton Counties, IA; and Freeborn, Mower, Fillmore, Houston, Winona, Olmsted, Dodge and Steele Counties, MN.

Note.—Applicant intends to tack this authority with its existing authority.

MC 118838 (Sub-87), filed July 7, 1981. Applicant: GABOR TRUCKING, INC., RR #4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *building materials*, between points in Alpena County, MI; Elkhart County, IN and Lucas, Ottawa and Wood Counties, OH on the one hand, and, on the other, points in CA, CO, ID, IL, IA, KS, MN, MO, MT, NE, NV, ND, OR, SD, UT, WA, WI and WY.

MC 121568 (Sub-88), filed July 7, 1981. Applicant: HUMBOLT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James C. Caldwell (same address as applicant), 615–242–5552. Over regular routes transporting *general commodities* (except classes A and B explosives), between Louisville, KY and Birmingham, AL, from Louisville, KY over Interstate Highway 65 to Birmingham, AL and return, serving all intermediate points.

Note.—Applicant intends to tack with its existing authority.

MC 138308 (Sub-143), filed June 18, 1981. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting (1) *furniture and fixtures*, and *such commodities* as are dealt in or used by manufacturers and distributors of traffic control products, between points in Hinds, Madison and Rankin Counties, MS, on the one hand, and, on the other, points in the U.S., and (2) *metal products* (a) between points in Bolivar County, MS, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, LA, MD, MI, MO, NE, NY, NC, ND, OH, OK, OR, PA, TN, TX, VA, WA, and WI, and (b) between Detroit, MI, and points in Worcester County, MA, Livingston, Oscoda, and Charlevoix Counties, MI, and Northumberland County, PA, on the one hand, and, on the other, Los Angeles, CA, Chicago, IL, Baltimore, MD, New York, NY, Cleveland and Toledo, OH, Pittsburgh, PA, Dallas and Houston, TX, and points in Hartford County, CT, Elbert County, GA, McHenry County, IL, DeKalb and Howard Counties, IN, Des Moines County, IA, Genesee County, MI, Essex and Bergen Counties, NJ, Chautauqua County, NY, Washington and Seneca Counties, OH, Putnam County, TN, Webb County, TX, Winnebago County, WI, and Sweetwater County, WY.

MC 138899 (Sub-6), filed June 25, 1981. Applicant: GREEN RIVER TRANSPORTATION COMPANY, INC., P.O. Box 634, Central City, KY 42330. Representative: Ray S. Stone (same address as applicant), (502) 754–3249. Transporting *wooden pallets, boxes, crates, and bases*, and *lumber*, between points in KY, on the one hand, and, on the other, points in IN, IL, OH, and TN.

MC 139858 (Sub-37), filed July 8, 1981. Applicant: AMSTAN TRUCKING INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006, 202–337–6500. Transporting *general commodities* (except classes A and B explosives), between points in DE, MD, NJ, NY, PA and VA on the one hand, and, on the other, points in IL, IN, KY, MI and OH under continuing contract(s) with Delaware Valley Shippers Association, Inc. of Bristol, PA.

MC 140889 (Sub-21), filed July 7, 1981. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114, 216–781–1600. Transporting *carpeting*, between points in the U.S. under continuing contract(s) with Regal Carpet Center, Inc. of South Euclid, OH.

MC 141459 (Sub-22), filed July 7, 1981. Applicant: AGS ENTERPRISES, INC., 809 Columbia Blvd., Litchfield, IL 62056. Representative: Michael R. Solomon (same address as applicant), 217–324–3713. Transporting *general commodities* (except classes A and B explosives), between the facilities used by International Paper Company at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 143059 (Sub-183), filed July 7, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant), 502–584–2301. Transporting *machinery*, between points in the U.S.

MC 145088 (Sub-12), filed July 7, 1981. Applicant: S & T TRUCKLOAD, INC., P.O. Box 4408, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817–332–4718. Transporting *hides and pig skins*, between points in Tarrant County, TX, on the one hand, and, on the other, points in the U.S.

MC 145359 (Sub-40), filed July 9, 1981. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *such commodities*, as are dealt in or used by service stations, food stores, auto supply stores and retail department stores, between points in AR, TN, MO, IL, MI, PA, IA, KY, WI, IN, OH, and WV on the one hand, and, on the other, points in the U.S.

MC 150578 (Sub-21), filed June 30, 1981. Applicant: STEVENS TRANSPORT, a Division of STEVENS FOODS, INC., 2944 Motley Dr., Suite 302, Mesquite, TX 75150. Representative: Michael Richey (same address as applicant), (214) 681–0454. Transporting *such commodities* as are dealt in or used by wholesale and retail food or grocery business houses, and department and variety stores, between points in the U.S.

MC 150578 (Sub-22), filed July 7, 1981. Applicant: STEVENS TRANSPORT, a Division of STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: Dwight L. Koerber, Jr., 110 North Second St., P.O. Box 1320, Clearfield, PA 16830, 814–765–9611. Transporting *confectionaries*, between the facilities of M & M/Mars, Division, Mars, Inc., at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 150738 (Sub-2), filed July 8, 1981. Applicant: HORNOI TRANSPORT, INC., 511 Pleasant, P.O. Box 934, Miles City, MT 59301. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126, 701–235–4487. Transporting *commodities in bulk*, between points in ID, MN, MT, ND, OR, SD, WA and WY.

MC 151319, filed June 30, 1981. Applicant: SEQUIN BUS LINES, P.O. Box 691, Marinette, WI 54143. Representative: Richard A. Rechlicz, N88 W16414 Main St., Menomonee Falls, WI 53051, (414) 251–2245. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in Marinette County, WI, and extending to points in MI, MN, IL, IN, and IA.

MC 151819 (Sub-6), filed July 7, 1981. Applicant: CARGO MASTER, INC., 917 S. Harwood St., Dallas, TX 75201. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *food and related products*, between points in Anderson

County, TX on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IA, KS, LA, MI, MN, MS, MO, NY, NM, NC, NE, OH, OK, PA, SC, TN, WI, UT, and VA.

MC-151969, filed June 18, 1981. Applicant: K & N, INC., d.b.a. TRANS-WESTERN TANK LINES, 2850 North Avenue, Grand Junction, CO 81501. Representative: Dale E. Isley, 50 S. Steele St., Suite 330, Denver, CO 80209, (303) 320-6100. Transporting *petroleum, natural gas, and their products*, between points in AZ, NM, CO, UT, and WY.

MC 154108 filed July 6, 1981. Applicant: CALHOUN TRANSPORTATION SERVICE, INC., Old Route 11, P.O. Box 10, Calhoun, TN 37309.Representative: M. C. Ellis, 1011 Market St., Chattanooga, TN 37402, 615-756-3620. Tranporting *pulp, paper and elated products*, between the facilities of Bowater Southern Paper Company at points in the U.S. located in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 156739, filed June 18, 1981. Applicant: RICHARD L. SIMPSON, d.b.a. RICHARD SIMPSON TRUCKING, 1224 So. Roosevelt, Harrisburg, IL 62946. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *petroleum products*, between points in Vanderburg County, IN and Cape Girardeau County, MO, on the one hand, and, on the other, points in Franklin, Gallatin, Hardin, Hamilton, Jefferson, Johnson, Massac, Pulaski, Saline, White, and Williamson Counties, IL.

MC 156808, filed June 26, 1981. Applicant: J. J. FRICK SAWMILL, INC., P.O. box 96, Coward, SC 29530. Representative: Wesley Frick (same address as applicant), (803) 389-4428. Transporting (1) *canned vegetables*, between points in Florence County, SC, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundaries of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, and (2) *charcoal briquettes*, between points in Florence County, SC, Lunenburg County, VA, and Cumberland County, TN, on the one hand, and, on the other, those points in the U.S. on and east of the above-described territory.

MC 156848, filed June 29, 1981. Applicant: GARY M. KING, JR., d.b.a. KING TRUCKING CO., 45 Commerical Drive, Burlington, KY. Representative: Gary M. King, Jr., (same address as applicant), (606) 525-7660. Transporting (1) *sand* between points in IN and OH, on the one hand, and, on the other, points in Jessamine County, KY, and (2) *coal*, between points in Perry County, KY, on the one hand, and, on the other, Cincinnati, OH.

MC 156859, filed June 30, 1981. Applicant: RICE TRANSPORT, INC., 17 Brookwood Road, Stanhope, NJ 07874. Representative: William F. Rice (same address as applicant), (201) 347-112. Transporting (1) *toys*, and (2) *hobbycraft*, between points in the U.S., under continuing contract(s) with Kay-Bee Toy and Hobby Shops, Inc., of Lee, MA.

MC 156889, filed July 1, 1981. Applicant: C. K. BLAIR INC., 1500 Route 202, Franklin Center, Huntington, P.Q. (J0S 1B0) Canada. Representative: Adrien R. Paquette, 200 James St. Room 900, Montreal, P.Q. Canada (H2Y 1M1), 514-842-1864. In foreign commerce only, transporting *pork rinds*, between the ports of entry on the international boundary line between the U.S. and Canada on the one hand, and, on the other, Chicago, IL, and points in Middlesex County, MA; Allen County, OH; and Northampton County, PA.

[FR Doc. 81-21630 Filed 7-22-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions: Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-206

Decided: July 16, 1981.

MC 2830 (Sub-7), filed July 8, 1981. Applicant: THE E. J. KELLEY CO., INC., 30 Railroad Square, Torrington, CT 06790. Representative: Thomas A. Kelley, Jr. (same address as applicant) (203) 489-9243. Transportating *general commodities* (except classes A and B

explosives), between points in ME, NH, VT, MA, CT, RI, NY, NJ, and PA.

MC 2960 (Sub-49), filed July 2, 1981. Applicant: ENGLAND TRANSPORTATION CO. OF TX, INC., 2301 McKinney St., Houston, TX 77023. Representative: Jackson Salasky, PO Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting (1) *rubber and plastic products* and (2) *metal products*, between points in Cowley County, KS, and Houston, TX.

MC 8771 (Sub-79), filed July 8, 1981. Applicant: S M TRANSPORT INC., P.O. Box 41, Camp Hill, PA 17011. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004, (202) 737–1030. Transporting *envelopes*, between Buffalo, NY, on the one hand, and, on the other, points in NJ, MI, OH, PA, and DC.

MC 111941 (Sub-37), filed June 25, 1981. Applicant: PIERCETON TRUCKING COMPANY, INC., Box 233, Laketon, IN 46943. Representative: Norman R Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *lumber and wood products, and building materials*, between the facilities of Wolohan Lumber Company at points in IN, IL, KY, MI, OH, and WI, on the one hand, and, on the other, points in the U.S., and (2) *lumber and wood products*, between points in Pike County, IN, on the one hand, and, on the other, points in the U.S.

MC 121821 (Sub-20), filed June 29, 1981. Applicant: TENNESSEE MOTOR LINES, INC., P.O. Box 100363, Nashville, TN 37210. Representative: Ralph B. Matthews, Suite 1200, Gas Light Tower, 235 Peachtree St., Atlanta, GA 30303, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives), between points in Davidson County, TN, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack this authority with its existing regular-route authority in MC–121821 Subs 13X, 14X, and 18X.

MC 144510 (Sub-6), filed July 7, 1981. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sgt. Bluff, IA 51053. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products*, between points in ME, on the one hand, and, on the other, those points in the U.S. in and east of TX, OK, KS, NE, SD, and ND.

MC 146491 (Sub-3), filed July 7, 1981. Applicant: ABC TRANSFER & DELIVERY, INC., 700 NW 5th Ave., Portland, OR 97209. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives), between points in OR, WA, and ID.

MC 150211 (Sub-17), filed July 2, 1981. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, P. O. Box E, Bowling Green, KY 42101, (502) 781–4446. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Jackson, TN, and Chicago, IL, from Jackson over U.S. Hwy 45E to junction U.S. Hwy 51, at or near Fulton, KY then over U.S. Hwy 51 to junction Interstate Hwy 57, at or near Future City, Il, then over Interstate Hwy 57 to Chicago, Il, and return over the same route, serving all intermediate points.

MC 152080 (Sub-3), filed July 7, 1981. Applicant: DEPENDABLE CARTAGE AND TRANSPORTATION COMPANY, INC., 2159 West Hastings St., Chicago, IL 60608. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting (1) *chemicals*, and (2) *oil and oil products*, between points in IL and IN, on the one hand, and, on the other, points in the U.S.

MC 152650 (Sub-2), filed July 7, 1981. Applicant: SHAVER TRUCKING, INC., 3600 Highway 68 W., P.O. Box 104, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753, (501) 846–2185. Transporting *such commodities* as are dealt in or used by discount and grocery stores, between the facilities of Wal-Mart, Inc., at points in AR, AL, KS, MO, OK, TX, LA, MS, KY, TN, and IL, on the one hand, and, on the other, points in the U.S.

MC 155470, (Sub-1), filed July 6, 1981. Applicant: H & O TRANSPORT, INC., PO Box 357, Campbellsville, KY 42178. Representative: Robert L. Baker, Sixth Floor, United American Bank, Nashville, TN 37219, (615) 244–8100. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, KY, NC, OH, TN, VA, and WV, on the one hand, and, on the other, points in the U.S.

MC 156640, filed July 10, 1981. Applicant: L & M TRUCKING, INC., 9125 Wicker, St. John, IN 46410. Representative: Lyndel Adams (same address as applicant) (219) 769–1600. Transporting *metal products*, between points in IL and IN, on the one hand, and, on the other, points in KY, TN, GA, FL, AL, MS, LA, AR, NC, SC, TX, OK, and MO.

MC 156961, filed July 1, 1981. Applicant: LOUDOUN TRAVEL LTD., 12 South King St., Leesburg, VA 22075. Representative: Clifford O. Bullard, Jr. (same address as applicant) (703) 777–7610. As a *broker*, at Leesburg, VA, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in VA, WV, and MD, and extending to points in the U.S.

MC 157011, filed July 7, 1981. Applicant: KISKO TRANSPORTATION CO., INC., 504 Raritan Street, Sayreville, NJ 08872. Representative: Edward F. Bowes, PO Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006, (201) 575–7700. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Solvents Recovery Service of New Jersey, Inc., of Linden, NJ.

MC 157041, filed July 9, 1981. Applicant: CHEMICAL TRANSPORT, INC., 1895 Willowdale Road, Dalton, GA 30720. Represenative: John W. Greer, III, 925 Healey Bldg., 57 Forsyth Street, Atlanta, GA 30303, (404) 523–1601. Transporting *latex, clay, chemicals and related products, and textile mill products*, between points in the U.S.

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Decided: July 16, 1981.

MC 2900 Sub 449, filed July 1, 1981. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant) (904) 353–3111. Transporting *rubber and plastic products*, beween points in the U.S., under continuing contract(s) with Arco Polymers, Inc., of Philadelphia, PA.

MC 6741 (Sub-13), filed July 1, 1981. Applicant: WILLEY'S EXPRESS, INC., 118 Hall St., P.O. Box 2009, Concord, NH 03301. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives), between points in ME, NH, VT, MA, RI, CT, NY, NJ and PA.

MC 8771 (Sub-77) (republication), filed June 16, 1981, previously noticed in the **Federal Register** issue of July 7, 1981. Applicant: S M TRANSPORT INC., P.O. Box 41, Camp Hill, PA 17011. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004, (202) 737–1030. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of automobiles, between points in MI and OH, on the one hand, and, on the other, points in VA.

Note.—The purpose of this republication is to include the territorial description.

MC 14321 (Sub-14), filed July 2, 1981. Applicant: ENGEL VAN LINES, INC., 901 Julia Street, Elizabeth, NJ 07201. Representative: Robert J. Gallagher, 1600 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *household goods*, between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, LA, AR, TN, KY, OH, MI, IN, IL, MO, IA, WI, MN, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AZ, CA, NV, OR, WA, and DC.

MC 52750 (Sub-28), filed June 29, 1981. Applicant: BLUE LINE TRANSPORATION CO., INC., P.O. Box 11125, Portland, OR 97211. Representative: Randall D. Imes 1407 N. Baldwin St., Portland OR 97217, (503)–289–2152. Transporting (1) *chemicals and related products*, between points in OR, WA, CA, ID, MT, UT and NV; and (2) *clay, concrete, glass or stone products*, between points in OR and WA.

MC 59150 (Sub-195), filed July 2, 1981. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval Street, Jacksonville, FL 32202. Transporting *air conditioning equipment and furnaces and parts and accessories* for the foregoing commodities, between the facilities used by Carrier Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 61440 (Sub-212), filed June 25, 1981. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157, (405) 840–7579. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Texaco U.S.A., a Division of Texaco, Inc., of Houston, TX.

MC 61440 (Sub-214), filed July 7, 1981. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157, (405) 840–7579. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Baldor Electric Company, of Ft. Smith, AR.

MC 65900 (Sub-2), filed June 29, 1981. Applicant: REMICK TRANSFER CO., INC., 268 Sanford St., Menasha, WI 54956. Representative: Edward J. Gerrity, 601 W. College Ave., P.O. Box 914, Appleton, WI 54912, (1)–(414) 734–5608. Transporting *pulp, paper and related products*, between points in Brown, Outagamie, Portage, Wood and Winnebago Counties, WI.

MC 82841 (Sub-321), filed July 7, 1981. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: William E. Christensen (same address as applicant), (402) 339–3003. Transporting *general commodities* (except classes A and B explosives), between the facilities of Clow Corporation and its subsidiaries, located at points in CA, AL, IA, IL, KY, OH and WV, on the one hand, and, on the other, points in AR, FL, GA, OH, TN and TX.

MC 84450 (Sub-11), filed July 7, 1981. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 S. Pennsylvania Ave., Morrisville, PA 19067. Representative: Steven R. Tranovich (same address as applicant), (215) 736–0233. Transporting *metal products*, between points in Lebanon and Dauphin Counties, PA, on the one hand, and, on the other, points in OH, IN, IL, MI, IA, WI, MN, MO, AR, KY, TN, MS, AL, LA, TX, VA, WV, NC, SC, GA and FL.

MC 111401 (Sub-623), filed July 7, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Enid, OK 73701. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center Bldg., 1600 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 112070 (Sub-25), filed July 7, 1981. Applicant: GRAY MOVING & STORAGE, INC., 1290 So. Pearl St. Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Fearn International, Inc., of Franklin Park, IL.

MC 116300 (Sub-89), filed June 30, 1981. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *building materials*, between points in Iberia Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV.

MC 121811 (Sub-7), filed June 29, 1981. Applicant: McCLELLAN'S ENTERPRISES, INC., P.O. Box 1327, Tifton, GA 31794. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *metal products*, between points in AL, FL, GA, NC, SC and TN.

MC 135231 (Sub-60), filed July 2, 1981. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in Pennington County, MN, on the one hand, and, on the other, points in the U.S.

MC 135691 (Sub-67), filed June 29, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506, (402) 489–3585. Transporting *chemicals and related products*, (1) between points in GA, IL, KY, MD, MA, MS, NJ, NY, NC, OH, OK, VT, PA, AL, and Santa Barbara County, CA, on the one hand, and, on the other, points in TX and LA, and (2) between points in Dallas County, TX, on the one hand, and, on the other, Phoenix, AZ.

MC 138861 (Sub-35), filed July 7, 1981. Applicant: C–LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Colbert, 1730 M Street, N.W., Suite 501, Washington, DC 20036, (201) 296–2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Northern Telecom, Inc., of Warwick, RI.

MC 143060 (Sub-2), filed July 7, 1981. Applicant: PENN–PACIFIC, INC., 20815 Currier Rd., Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *such commodities* as are dealt in or used by restaurants, between the facilities used by Burger King Corporation, and its affiliates, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 143280 (Sub-31), filed July 6, 1981. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Ave., South, Eden Praire, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting (1) *clay, concrete, glass or stone products;* and (2) *metal products*, between Minneapolis, MN, and points in Mitchell County, IA, on the one hand, and, on the other, points in the U.S.

MC 144630 (Sub-58), filed July 6, 1981. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46016. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317)

846–6655. Transporting *pulp, paper and related products, and plastic materials,* between the facilities used by Georgia-Pacific Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146601 (Sub-8), filed July 1, 1981. Applicant: POTEAT MOTOR LINES, INC., P.O. box 2030, Hickory, NC 28601. Representative: Robert D. Hoagland, 1204 Cameron Brown Bldg., 301 S. McDowell St., Charlotte, NC 28204, (704) 333–8801. Transporting *textile mill products,* between points in AL, CT, DE, FL, GA, LA, MA, MD, MS, NJ, NY, NC, PA, RI, SC, TN, VA, WV, and Hillsborough and Rockingham Counties, NH.

MC 150040 (Sub-2), filed June 26, 1981. Applicant: AUTUMN INDUSTRIES, INC., 3875 Herr-Fieldhouse Rd., Southington, OH 44470. Representative: E. H. van Deusen, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017, (614) 889–2531. Transporting (1) *ores and minerals,* (2) *coal and coal products,* (3) *clay, concrete, glass, or stone products,* (4) *metal products* and (5) *waste or scrap materials not identified by the industry producing,* between points in IL, IN, MI, OH, KY, WV, MD, PA, NY, NJ, WI and VA.

MC 152311, filed July 1, 1981. Applicant: IMR TRANSPORTATION, INC., P.O. Box 573, Casa Grande, AZ 85222. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *cottonseed oil,* between points in the U.S., under cintinuing contract(s) with Casa Grande Oil Mill, of Casa Grande, AZ.

MC 152671 (Sub-5), filed July 1, 1981. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O.B. 6699, Boise, ID 83707. Representative: Timothy R. Stivers P.O.B. 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Allied Stores Corporation, of New York, NY.

MC 152730 (Sub-4), filed June 29, 1981. Applicant: DEPENDABLE TRANSIT, INC., 300 South P.O. Box 21, Hartford City, IN 47348. Representative: Larry Dee Garrett (same address as applicant), (317) 348–0051. Transporting *glass products,* betwen points in Jay, Blackford, and Delaware Counties, IN, on the one hand, and, on the other, points in the U.S.

MC 152730 (Sub-5), filed July 1, 1981. Applicant: DEPENDABLE TRANSIT, INC., 300 South P.O. Box 21, Hartford City, IN 47348. Representative: Larry Dee Garrett (same address as applicant), (317) 348–0051. Transporting *rubber and plastic products,* between points in Jay County, IN, on the one hand, and, on the other, points in the U.S.

MC 154121 (Sub-12), filed July 1, 1981. Applicant: TRAILINER CORP., P.O. Box 357, Old Chester Rd., Gladstone, NJ 07934. Representative: George A. Olsen (same address as applicant) (201) 234–0301. Transporting *drugs and medicines* between the facilities used by Carter Wallace, Inc., its subsidiaries, divisiosn, or vendors, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 154280, filed July 7, 1981. Applicant: HERALD LIMA d.b.a HAL TRANSPORT SERVICE, 1514 E. Thomas Ave., Milwaukee, WI 53211. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414)–722–2848. Transporting *pulp, paper, and related products,* between points in the U.S., under continuing contract(s) with Wisconsin Paperboard Corporation, of Milwaukee, WI

MC 154460 (Sub-2), filed July 1, 1981. Applicant: Q CARRIERS, INC., 14086 Rutgers St., NE., Prior Lake, MN 55372. Representative: Randall D. Quiring (same address as applicant), (612)–445–8718. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with R.C. Smith Co., of Minneapolis, MN.

MC 154851, filed July 1, 1981. Applicant: DOUBLE J TRANSPORT, LTD., 9520—51 Ave., Edmonton, Alberta, Canada. Representative: Charles M. Williams, 665 Capital Life Center, 1600 Sherman St., Denver, CO 80203, (303) 839–5856. Transporting *Mercer commodities and pumps,* between points in Lincoln, Flathead, Glacier, Toole, Liberty, Hill, Blaine, Phillips, Valley, Daniels and Sheridan Counties, MT, and Divide, Burke, Renville, and Bottineau Counties, ND, on the one hand, and, on the other, points in MT, ND, UT, WY, CO, TX, OK, KS, and NM.

MC 154881, filed June 23, 1981. Applicant: J. L. AND V. A. HATFIELD, d.b.a. HATFIELD ENTREPRIZES, 6159 E. Riverside, Spokane, WA 99206. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Van Waters & Rogers, of Spokane, WA.

MC 155140, filed July 1, 1981. Applicant: PIEDMONT CARTAGE, INC., Route 11, Highway 124, Greenville, SC 29611. Representative: David L. Dorrity (same address as applicant), (803) 269–3393. Transporting *general commodities* (except classes A and B explosives), between points in SC, NC, GA, TN, and AL.

MC 155300, filed June 25, 1981. Applicant: WIARD'S ORCHARDS, INC., 5565 Merritt Rd., Ypsilanti, MI 48197. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with (1) Supreme Distributors Company, of Southfield, MI, (2) Bay City Milling & Grocer Company, of Bay City, MI, (3) Country Farm Meats, Inc., and (4) Wiard's Orchards, Inc. both of Ypsilanti, MI.

MC 156900, filed July 1, 1981. Applicant: ARCADIA TRANSPORTATION COMPANY, 350 Madison Street, Arcadia, WI 54612. Representative: Edward H. Instenes, 128½ East Third, P.O. Box 676, Winona, MN 55987, (1–507) 454–3914. Transporting *general commodities* (except classes A and B explosives), between points in Trempealeau County, WI, on the one hand, and, on the other, points in the U.S.

MC 156911, filed July 1, 1981. Applicant: B & D EXPRESS, INC., P.O. Box 143, Federalsburg, MD 21632. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. Transporting *bananas,* between Baltimore, MD, Wilmington, DE and New York, NY, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC.

MC 156951, filed July 1, 1981. Applicant: MELTON TRANSPORTATION, Rt. 4 Box 494, Salisbury, NC 28144. Representative: Kenneth Ray Melton (same address as applicant) (704)–637–2871. Transporting *mobile homes,* between points in NC, on the one hand, and, on the other, points in VA, SC, GA, AL, FL, MS, TN, KY, WV, OH, PA, DE and MD.

MC 157001, filed July 7, 1981. Applicant: KERN FOODS, INC., 13000 E. Temple, City of Industry, CA 91749. Representative: Pete Peterson (same address as applicant), (213) 962–5111. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Rosarita Mexican Foods Company, of Mesa, AZ.

MC 157010, filed July 7, 1981. Applicant: COMMERCIAL WAREHOUSE COMPANY, a

Corporation, 2920 South 19th Avenue, Chicago, IL 60153. Representative: Ronald N. Cobert, 1730 M Street, NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives), between points in IL, on the one hand, and, on the other, points in CT, DE, IN, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WI, WV, and DC.

[FR Doc. 81-21629 Filed 7-22-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–207

Decided: July 16, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 146491 (Sub-2), filed June 29, 1981. Applicant: ABC TRANSFER & DELIVERY, INC., 700 N.W. 5th Ave., Portland, OR 97209. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. As a *broker of general commodities* (except household goods), betwen points in the U.S.

MC 156891, filed July 1, 1981. Applicant: TIMOTHY INC., 823 Valley Brook Ave., Lyndhurst, NJ 07071. Representative: Judy McCarthy (same address as applicant), (201) 933–5484. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156971, filed July 6, 1981. Applicant: TRUCK DISPATCH SERVICE, INC., 2055 East North Avenue, Fresno, CA 93771. Representative: Tom Kourafas, 1336 West San Bruno, Fresno, CA 93711, (209) 431–1052. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 157031, filed July 7, 1981. Applicant: ROADCO TRANSPORTATION SERVICES, INC., 175 East Delaware St., Chicago, IL 60611. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. As a *Broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–209

Decided: July 16, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 10761 Sub 287, filed June 30, 1981. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 2843 E. Paris Rd., Grand Rapids, MI 49501. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, DC 20036 (202) 659–5157. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, harzardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 135111 (Sub-9), filed June 29, 1981. Applicant: REESE TRUCKING, INC., P.O. Box 99, Dover, OH 44622. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156880, filed June 23, 1981. Applicant: ONAN CONSOLIDATION INC., P.O. Box 24363 Seattle, WA 98124. Representative: Bruce S. Meston, 911 Western Avenue, Suite 522, Seattle, WA 98104 (206) 682–7655. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY–5–109

Decided: July 15, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79999 (Sub-16), filed June 30, 1981. Applicant: RANGER TRUCK LINE, INC., 1633 Miles (P.O. Box 2008), Houston, TX 77001. Representative: Mike Cotton, P.O. Box 1148, Austin, TX 78767, 512–472–8800. (1) Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. and (2) Transporting *shipments weighing 100*

poounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 140829 (Sub-373), filed June 30, 1981. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: Robert A. Wichser, P.O. Box 155, 920 West 21st St., South Sioux City, NE 68776 (402) 494–5466. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156898, filed June 26, 1981. Applicant: SOUTHERN PARCEL & FREIGHT, P.O. Box 767, New Albany, MS 38652. Representative: James L. Catt (same address as applicant) (601) 534–2400. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 156968, filed July 2, 1981. Applicant: CARDINAL TRUCK BROKERS, Division of JAN Equipment and Leasing Company Inc., 12903 Main St., Rogers, MN 55374. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. As a broker of *general commodities* (except household goods), between points in the U.S.

[FR Doc. 81–21626 Filed 7–22–81; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 125]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 17, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 57228 (Sub-7)X, filed July 8, 1981. Applicant: DWORKIN, INC., 5400 Harvard Avenue, Cleveland, OH 44105. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Applicant seeks to remove restrictions from its Sub-No. 6F certificate to broaden the commodity description from precast building materials, to "building materials" in Part 2(a).

MC 65626 (Sub-44)X, filed July 1, 1981. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 10, 12, 14, 15, 17, 20, 21, 22, 23, 24, 26, 29, 31, and 32 certificates and E–1 letter notice to (A) broaden the commodity descriptions from (1) canned goods, vegetables, fruits, fruit juices, jellies, preserves, and table sauces; macaroni and spaghetti; grape juice; sugar; malt beverages; in the lead; canned and preserved foodstuffs in the Sub-Nos. 10 and 12; mushrooms, steak sauce and soups in the Sub-No. 17; frozen foods (except frozen fruits, berries, and vegetables) in the Sub-Nos. 20 and 21; food and foodstuffs (except in bulk) in the Sub-No. 22; foodstuffs (except in bulk) from the Sub-No. 23; canned goods and sugar (except in bulk) in the Sub 24; malt beverages (except in bulk) in the Sub-No. 26; food and foodstuffs (except commodities in bulk, in tank vehicles), in the Sub-No. 27; foodstuffs (except in bulk) in the Sub-No. 29; canned and preserved foodstuffs (except in bulk) in the Sub-No. 31; and foods, food products, food ingredients, animal foods, animal food ingredients, meat by-products, and products requiring mechanical refrigeration (except in bulk), in the Sub-No. 32; and malt beverages (except in bulk) and mushrooms, steak sauce, and soup, in the E–1 letter notice to "food and related products"; (2) heating equipment and heating parts and accessories; foundry and core equipment and rough casting, such as are used in the manufacture of heating radiators, radiator parts, and heating equipment and heating equipment parts and accessories in the lead to "clay, concrete, glass, or stone products, metal products, machinery, transportation equipment and instruments and photographic goods"; (3) heating radiator parts and accessories in Sub-No. E–1 to "textile mill products, lumber and wood products, furniture and fixtures, clay, concrete, glass, or stone products, metal products, machinery and transportation equipment"; (4) seed and seed display cases; and fresh fruits and vegetables in the lead to "farm products, forest products, furniture and fixtures"; (5) sulphate of alumina in the lead to "chemicals and related products", empty jars, glass cans, and jelly glasses, bottles, with or without tops, corks, or stoppers in the lead to "rubber and plastic products"; empty containers, glass, plastic and metal) in the Sub-Nos. 10, and 14 to "clay, concrete, glass or stone products, metal products, and rubber and plastic products"; (6) glass containers in the Sub-No. 15 to "clay, concrete, glass or stone products"; (B) change city to county-wide authority from Westfield, Brockton, Dunkirk, Fredonia, Jamestown, and Faulconer, NY, to Chautauqua County, NY; South Dayton and Geauga, NY, to Cattaraugus County, NY; Springville, NY, to Erie County, NY; West Newton, PA, to Westmoreland County, PA; Fogelsville, PA, to Lehigh County, PA; Bloomsburg, PA, to Columbia county, PA; Erie and North East, PA to Erie County, PA; Camden, NJ to Camden County, NJ; freehold to Monmouth County, NJ; Millville and Bridgeton to Cumberland County, NJ; Paterson to Passaic County, NJ; and Gloucester City, to Gloucester County, NJ; Dunkirk, IN, to Jay, Blackford and Delaware County, IN; Cheriton, VA, to Northampton County, VA; Hopeton, VA, to Accomack County, VA; and Wilmington, DE, to New Castle County, DE; (C) eliminate the facilities limitations in Sub-Nos. 22, 27, 31, and 32; (D) replace one-way with radial authority; and (E) remove the restrictions against the transportation of commodities in bulk, in tank vehicles, in containers, in bottles or jars, with or without caps or closures, empty iron and steel containers being transported from Jersey City and Paterson, NJ, to points in Chautauqua County, NY, and empty containers, caps, covers, discs, tops, boxes, crates, cases, and rubber rings, from points in PA, Bridgeton, NJ, and Charleston, Huntington, Fairmont, Grafton and Clarksburg, WV, and

remove the originating at and destined to restrictions, seasonal restrictions, the restriction against transportation of specified commodities from and to named points; the exception of Brockton and Westfield, NY.

MC 117503 (Sub-19)X, filed June 12, 1981, previously noticed in the **Federal Register** of July 9, 1981, republished as corrected this issue. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Applicant seeks to remove restrictions in its Sub-No. 9 certificate as previously noticed. In addition, applicant seeks to replace Sacramento Metropolitan Airport with Sacramento, CA. The purpose of this republication is to correct the inadvertent omission.

MC 119767 (Sub-368)X, filed March 26, 1981, published in the **Federal Register** of April 10, 1981, republished as follows: Applicant: BEAVER TRANSPORT CO., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney (same as applicant). As is pertinent here, applicant seeks to remove restrictions in its Sub-No. 71 certificate to broaden authority to serve facilities at New Albany, IN, with authority to serve points in Clark and Floyd Counties, IN, and Jefferson County, KY. The certificate issued in this proceeding included only Clark and Floyd Counties, IN. The purpose of this republication is to reflect applicant's original request and to request comments from interested parties.

MC 120646 (Sub-30)X, filed February 3, 1981, published in the **Federal Register** of February 24, 1981, and republished as follows: Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, NC 28803. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. As is pertinent here, applicant seeks to remove restrictions in its Sub-Nos. 5, 20, and 27 certificates to (A) in Sub-No. 5, broaden the territorial descriptions from Ferndale Station, KY, and facilities at Westminster, SC, to Bell County, KY, and Oconee County, SC; (B) in Sub-No. 20, broaden the territorial descriptions from facilities at Whittier and Hildebran, NC, to Swain, Jackson, Burke, and Catawba Counties, NC; and (C) in Sub-No. 27, (1) broaden the commodity description from new furniture and such commodities as are used in the manufacture of new furniture to "furniture and fixtures," and (2) broaden the territorial description from facilities at or near Drexel, Marion, Morganton, Hildebran, Shelby, Mocksville, High Point, Black Mountain, Asheville, and Whittier, NC, to Burke, Catawba, McDowell, Cleveland, Davie, Gilford, Buncombe, Swain, and Jackson Counties, NC. The certificate issued in this proceeding failed to encompass the revisions noted above. The purpose of this republication is to reflect applicant's original request and to request comments from interested parties.

MC 135235 (Sub-11)X, filed July 6, 1981. Applicant: LOMA CARTAGE, INC., 11359 Franklin Ave., Franklin Park, IL 60131. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 5 certificate to (1) change the commodity description from floor coverings to "textile mill products, rubber and plastic products, and clay, concrete, or stone products;" (2) broaden the territorial description from one-way to two-way radial authority; and (3) remove the "except commodities in bulk" and "except tile" restrictions.

MC 138216 (Sub-1)X, filed July 6, 1981. Applicant: THOMAS E. EGGERS, 2004 Franklin Avenue, Las Vegas, NV 89104. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from gypsum plaster and gypsum wall board to "building materials;" (2) authorize county-wide authority in Clark County, NV, to replace existing point service, Blue Diamond, NV; and (3) authorize radial service to replace existing one-way service, between points in Clark County, NV, and points in Los Angeles, Orange, San Bernardino, and Riverside Counties, CA.

MC 150183 (Sub-6)X, filed June 26, 1981. Applicant: CASSCO REFRIGERATED TRANSPORT, DIVISION OF CASSCO CORPORATION, 125 West Bruce Street, Harrisonburg, VA 22801. Representative: James M. Hodge, 1000 United Central Bank Bldg, Des Moines, IA 50309. Applicant seeks to remove restrictions from its Sub-Nos. 1F, 2F, 3F and 4F certificates to (1) broaden the commodity description to "food and related products and materials, equipment, and supplies used in the manufacture and distribution of food and related products" from foodstuffs and materials, equipment, and supplies in Sub-Nos. 1 and 4, (2) remove the restriction to commodities in bulk in Sub-Nos. 1, 2 and 4, (3) remove facilities limitation (a) in Sub-No. 2 and replace Harrisonburg, VA with Rockingham County, VA, (4) change city to county-wide authority (a) in Sub-No. 3 from Harrisonburg, VA to Rockingham County, VA, (b) in Sub-No. 4 from Timberville, VA to Rockingham County, VA and (5) change one way to radial authority between a described portion of the U.S., and, 1 VA county in Sub-Nos. 2 and 3.

MC 152543 (Sub-2)X, filed June 29, 1981. Applicant: J & S TRANSPORTATION, INC., 1015 North Street, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (A) broaden the commodity description from liquid chemicals, in bulk, to "chemicals and related products"; and (B) remove the vehicle restriction limiting service "in tank vehicles."

[FR Doc. 81-21627 Filed 7-22-81; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. P-35]

Passenger Train Operation; Chicago and North Western Transportation Co.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Seattle, Washington. The operation of these trains requires the use of the tracks and other facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). A portion of the MILW tracks at Lake, Wisconsin, are temporarily out of service because of a derailment. An alternate route is available via Chicago and North Western Transportation Company between Milwaukee (Washington Street) and Shermer, Wisconsin.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company (CNW) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Milwaukee (Washington Street) and a connection with Chicago, Milwaukee, St.

Paul and Pacific Railroad Company (MILW), at Shermer, Wisconsin.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 5:00 p.m., July 14, 1981.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 14, 1981.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 81-21628 Filed 7-22-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Attorney General's Task Force on Violent Crime; Meeting

The Attorney General's Task Force on Violent Crime will meet from 9:00 a.m until 5:00 p.m. on August 4 and 5, 1981 at the Lowe's Summit Hotel, 51st Street and Lexington Avenue, New York, New York.

On the first day and the morning of the second day of the meeting public testimony will be taken on a wide range of criminal justice issues, with special emphasis on bail, sentencing, and federal assistance to state and local governments. Persons interested in testifying should contact the Committee Management Liaison Officer, Attorney General's Task Force on Violent Crime, U.S. Department of Justice, Washington, D.C. 20530 (telephone 202/633-1617).

On the afternoon of the second day of the meeting the Task Force members will discusss and arrive at recommendations to the Attorney General on ways in which the federal government could do more to combat violent crime by changing federal statutes and resource allocations to make the federal role more effective.

The meeting will be open to the public. Approximately 300 seats will be available for the public and media representatives on a first-come first-served basis. We regret that exigencies of arranging this meeting precluded the normal 15-day notice period.

Inquiries may be addressed to the Committee Management Liaison Officer at the above address.

Sue A. Lindgren,

Staff Director, Attorney General's Task Force on Violent Crime.

[FR Doc. 81-21446 Filed 7-22-81; 8:45 am]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project.* * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Central Louisiana Legal Services, Inc., in Alexandria, Louisiana, to serve Vernon Parish.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, GA 30308.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 81-21520 Filed 7-22-81; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project.* * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Tri-Parish Legal Services Corporation, in Jonesville, Louisiana to serve Catahoula, Concordia and LaSalle Parishes.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, GHA 30308.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 81-21519 Filed 7-22-81; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Hydrology Panel; Meeting

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Hydrology Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Wednesday and Thursday on July 29-30, 1981. The Subgroup will meet at the Tulsa River Forecast Center, 333 West 4th Street, Room 3031, Tulsa, OK 74103.

The sessions, which will be open to the public, will convene at 8:30 a.m. and adjourn at 4:30 p.m. on Wednesday, July 29 and will convene at 8:30 a.m. and adjourn at 12:00 noon on Thursday, July 30. The purpose of this meeting will be to tour the River Forecast Center (RFC) facilities, and discuss the operations and plans of the RFC, as part of the NACOA review of the Hydrologic Services of the National Weather Service.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Hydrology Panel, Paul Bock, in advance of the meeting.

The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or James A. Almazan, the Staff Member for the Hydrology Panel. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235.

Dated: July 20, 1981.

C. P. Idyll,

Senior Marine Analyst.

[FR Doc. 21559 Filed 7-22-81; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL CAPITAL PLANNING COMMISSION

Environmental Policies and Procedures; Proposed Amendment

AGENCY: National Capital Planning Commission.

ACTION: Notice of amendment to procedures with request for comment.

SUMMARY: The proposed amendment would include among the Commission's categorical exclusions those type of actions which are designated as a categorical exclusion by a Federal agency submitting projects to the Commission for review. (Categorical Exclusion means a category of actions which do not individually or cumulatively have a significant effect on human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of the CEQ regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.) The Commission's current policies and procedures now may require environmental assessments or environmental statements with respect to categories of actions which the regulations of other Federal agencies have identified as not having a significant effect on the human environment, thereby resulting in unnecessary evaluations and paperwork. The proposed amendments would alleviate the inconsistency between the Commission's procedures and other agencies' procedures.

DATE: Comments must be received on or before August 24, 1981.

ADDRESS: Comments should be mailed to: Patricia J. Crawford, Chief, Environmental/Energy Branch, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Patricia J. Crawford, Chief, Environmental/Energy Branch, National Capital Planning Commission, Room 1028, 1325 G Street, N.W., Washington, D.C. 20576, (202) 724-0180 or 724-1082.

For the reasons set out in the preamble, the National Capital Planning Commission's Environmental Policies and Procedures, 44 FR 64923-64828 (November 8, 1979), are proposed to be amended as set forth below:

(1) The second sentence of Section 3.C.1 is amended to read: "For each action listed under Sec. 7, except for any action determined to be a categorical exclusion pursuant to Sec. 8, the sponsoring agency's submission to the *Commission* must include an *EIS* or an *environmental assessment.*"

(2) Section 8 is amended by changing the period at the end of clause (10) in the first paragraph to a semicolon and adding:

"(11) Take any other action which any other Federal agency has designated as a categorical exclusion."

July 16, 1981.

Daniel H. Shear,

Secretary to the Commission.

[FR Doc. 81-21536 Filed 7-22-81; 8:45 am]

BILLING CODE 7520-01-M

Floodplain Management and Wetlands Protection

AGENCY: National Capital Planning Commission.

ACTION: Notice of proposed procedures and amendment to procedures with request for comments.

SUMMARY: This notice sets forth procedures for implementing Executive Order 11988, "Floodplain Management", and Executive Order 11990, "Protection of Wetlands", and an amendment to the Commission's Site and Building Plans requirements which are proposed to be adopted by the Commission. Both of the Executive Orders have as their key requirement avoidance of unwise floodplain and wetland development and require Federal agencies to identify workable and reasonable procedures for applying the Executive Orders to all actions affecting floodplains and wetlands. The proposed procedures are designed to aid the Commission in its efforts to reduce the risk of flood loss; minimize the impact of floods on human safety, health, and welfare; and restore and preserve natural floodplain and wetland values. The amendment to the Commission's Site and Building Plans Requirements will conform these requirements to the Commission's new Procedures for Floodplain Management and Wetlands Protection.

DATE: Comments must be submitted on or before August 24, 1981.

ADDRESS: Send comments to Patricia J. Crawford, Chief, Environmental/Energy Branch, National Capital Planning Commission, Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Patricia J. Crawford, Chief, Environmental/Energy Branch, National Capital Planning Commission, Room 1028, 1325 G Street, N.W., Washington, D.C. 20576, (202) 724-0182 or 724-0180.

Procedures for Floodplain Management and Wetlands Protection

Sec.

1. Purpose.
2. Definitions.
3. Objectives and Procedures.
4. Scope and Responsibilities.
5. Decisionmaking Process.

Sec. 1. Purpose.

The Commission will, to the fullest extent possible, develop policies, plans, and programs to protect and maintain the environmental quality of Floodplains and Wetlands.

Sec. 2. Definitions.

The following definitions shall apply throughout these procedures

(a) *Action* means any Commission activity including: (1) acquiring, managing and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including, but not limited to, water and related land resources planning, regulating, and licensing activities.

(b) *Base Flood* means the flood which has a one percent chance of being equalled in any given year (also known as a 100-year flood).

(c) *Commission* means the National Capital Planning Commission created by the National Capital Planning Act of 1952, as amended (40 U.S.C. 71-711, 72, 73, 74; D.C. Code, secs. 1-1001 to 1-1013).

(d) *Direct Impacts* means changes in Floodplain or Wetland values and functions caused or induced by an Action or related activity. Direct Impacts are caused whenever Natural Values are affected as a direct result of an Action.

(e) *Executive Director* means the director employed by the Commission.

(f) *Floodplain* means the lowland and relatively flat areas adjoining inland and

coastal waters including, at a minimum, those areas subject to a one percent or greater chance of flooding in any given year.

(g) *Indirect Impacts* means an indirect result of an Action whenever the Action induces or makes possible related activities which affect the Natural Values of Floodplains or Wetlands. Such impacts occur whenever these values are potentially affected, either in the short- or long-term, as a result of undertaking an Action.

(h) *Natural Values* means the qualities of or functions served by Floodplains and Wetlands which include, but are not limited to: (1) water resource values (natural moderation of floods, water quality maintenance, groundwater recharge) (2) living resource values (fish, wildlife, plant resources and rehabitats); and (3) cultural resource values (open space, natural beauty, scientific study, agriculture, aquaculture, forestry).

(i) *New Construction* means the construction of a new structure or facility, or the reconstruction of a structure or facility which has been totally destroyed.

(j) *Non-structural Flood Protection Methods* means techniques designed to achieve desired future Floodplain conditions which may include such things as changes in flood regulations and flood insurance, and the development of educational and protection programs.

(k) *Statement of Findings* is a written public explanation which includes a description of (1) why the proposed action must be located in the Floodplain or Wetland; (2) all significant facts considered in making the determination including alternative sites and Actions; and (3) a statement indicating whether the Actions conform to applicable State or local Floodplain protection standards.

(l) *Structure* means anything constructed, including a building, mobile homes, and gas and liquid storage tanks, which requires permanent location on the ground.

(m) *Wetlands* means those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Wetlands include, but are not limited to, swamps, fresh and salt water marshes, estuaries (for purposes of these procedures, estuaries refer to non-major river estuaries), bogs, beaches, wet meadows, sloughs, potholes, mud flats, river overflows and other similar areas. This definition includes those Wetland areas separated from their natural supply of water as a result of such activities as the construction of structural flood protection methods or solid-fill road beds, mineral extraction, and navigation improvements. This definition is intended to be consistent with the definition utilized by the U.S. Fish and Wildlife Service.

Sec. 3. Objectives of Procedures.

The objectives of these procedures are to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of Floodplains and Wetlands and to avoid direct or indirect support of development in Floodplains and Wetlands wherever there is a practicable alternative. Where Floodplain or Wetland impacts cannot be avoided, these procedures will focus on mitigation of the adverse effects of any action. In implementing these procedures the Commission will:

(a) Encourage the wise use and conservation of Floodplains and Wetlands to preserve their natural and beneficial values;

(b) Avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of Floodplains and the destruction or modification of Wetlands;

(c) Avoid the direct or indirect support of development and New Construction in Floodplains and Wetlands whenever there is a practicable alternative;

(d) Minimize the potential harm to people and property and to Natural Values when an Action must be located in the Floodplain;

(e) Promote the use of Non-structural Flood Protection Methods to reduce the risk of flood loss; and

(f) Attempt to achieve a suitable balance between the protection of Floodplains and Wetlands and development.

Sec. 4. Scope and Responsibilities.

(a) Applicability. These procedures apply to all Actions initiated by the Commission which have the potential for adversely impacting Floodplains or Wetlands or their occupants, or which are subject to potential harm by location in Floodplains or Wetlands. An Action has the potential to affect Floodplains or Wetlands if the probability for adverse effects is associated with:

(1) The occupancy or modification of Floodplains both direct and indirect; or

(2) The destruction or modification of Wetlands both direct and indirect.

(b) Scope. If the Commission finds that the Floodplain and/or Wetlands would be impacted, the Commission shall:

(1) Identify and evaluate practicable alternatives to locating in a Floodplain or Wetland, including practicable alternative sites outside the Floodplain or Wetland; alternative Actions which serve essentially the same purpose as the proposed Action but which have less potential to adversely affect the Floodplain or Wetland; and the "no action" alternative. The following factors should be analyzed in determining the practicability of alternatives.

(i) Natural environment (topography, habitat, hazards);

(ii) Social concerns (aesthetics, historical and cultural values, land use patterns);

(iii) Economic aspects (costs of space, construction, services and relocation); and

(iv) Legal constraints.

(2) Identify the full range of potential direct or indirect adverse impacts associated with the occupancy and modification of Floodplains and Wetlands. The following factors should be analyzed:

(i) Flood hazard-related factors, such as (A) depth, velocity and rate of rise of flood water; (B) duration of flooding; (C) high hazard riverine areas (areas subject to high velocity waters); (D) available warning and evacuation time and routes; and (E) effects of special problems, e.g., levees and other protection works, erosion, subsidence, sink holes, ice jams, combinations of flood sources debris load and pollutants.

(ii) Natural Values, such as (A) water values (natural moderation of floods, water quality maintenance, and ground water recharge); (B) living resource values (fish and wildlife and biological productivity);

(C) Cultural resource values (archeological and historic sites, and open space for recreation and green belts); and (D) agricultural, aquacultural and forestry resource values.

(c) Responsible Official. The Executive Director shall be the responsible official for ensuring Commission compliance with Executive Orders 11988 and 11990 and for preparing or reviewing and applicable Statement of Findings.

Sec. 5. Decisionmaking Process.

Prior to taking any Action subject to these procedures, the Commission shall:

(a) Notify the public at the earliest possible time that consideration is being given to carrying out an Action potentially affecting or affected by a Floodplain or Wetland, and involve the

broadest affected and interested public in the decisionmaking process.

(b) For actions subject to the Office of Management and Budget Circular A-95, the Commission shall send a notice, not to exceed three pages in length, including a location map, to the state and areawide A-95 clearing-houses for the geographic areas affected. The notice shall include: (1) the reasons why the Action is proposed to be located in a Floodplain or Wetland; and (2) a list of the practicable alternatives considered. A brief comment period of 30 days will be allowed prior to taking any Action.

(c) If a Statement of Findings is required, it shall include the following:

(1) Reasons why the Action is proposed to be located in the Floodplain or Wetland;

(2) A statement indicating whether the Action conforms to applicable state or local Floodplain management standards;

(3) A list of the alternatives considered;

(4) A list of the mitigation measures and/or revisions made to the proposed Action so as to minimize harm to or within the Floodplain, and to minimize the destruction, loss, or degradation of Wetlands; and

(5) A map of the general area clearly delineating the proposal's locale and its relationship to its environs.

Site and Building Plans Requirements: Proposed Amendment

Subsection C of section 3 of the Commission's Site and Building Plans Requirements, 37 FR 3011-3013 (February 10, 1972), as amended, 37 FR 10330-10331 (March 19, 1974), is further amended by adding at the end thereof the following:

"(7) *Floodplain Management and Wetlands Protection.* The initial submission by a Federal agency for a project to be located in a Floodplain or Wetland, as defined in the Commission's Floodplain Management and Wetlands Protection Procedures (——— FR ———), shall include a copy of the agency's statement of findings, evaluation of impacts, and proposed mitigation measures prepared pursuant to Executive Order 11988 or Executive Order 11990."

Daniel H. Shear,

Secretary to the Commission.

July 16, 1981.

[FR Doc. 81-21535 Filed 7-22-81; 8:45 am]

BILLING CODE 1520-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-30]

Recommendations, Responses; Availability

On June 27, 1981, an Aerospatiale AS350 helicopter, N1381BH, experienced a severe tail rotor vibration while in flight. Four similar fatigue failures of the tail rotor pitch change horn have occurred recently—one in Canada, three in the United States. In view of its findings, the Board on July 10 issued to the Federal Aviation Administration the following "Class I, Urgent Action" recommendations:

Take immediate action to revise the existing inspection instructions of AD 81-13-09 to stress the importance of thoroughly cleaning the pitch change horn in the area of the mounting bolt countersinks and adjacent yoke radii before performing the dye penetrant and visual inspections required. (A-81-71)

Expedite review of the recent failure history and existing flight-load data on the AS350, PN350A-12-1368-01, tail rotor pitch change horn and issue an Emergency Airworthiness Directive to establish a life limit for the part. (A-81-72)

Responses from the Federal Aviation Administration:

A-78-82 and -83 (June 29).—FAA remains convinced that to rely on pilots' requests before applying visual separation would have adverse impact on efficient use of airspace at many terminals. Increased delays in Terminal Radar Service Areas would cause many pilots to decline participation in Stage III services, increasing the risk of collisions. Handbook 7110.65B, paragraph 490, was revised Oct. 1, 1980. (Ref. 45 FR 51008, July 31, 1980.)

A-80-35 (June 29).—AD 81-11-04, issued May 15, 1981, requires inspection of nosewheels on Piper PA-31, PA-31-325, and PA-81-350 airplanes. (Ref. 46 FR 17685, Mar. 19, 1981.)

A-81-30 and -31 (June 24).—Amendment of AD 68-05-01 to require annual inspection of the Piper tri-pacer exhaust system would be redundant to existing requirements. Instead, FAA will develop an advisory circular that emphasizes safety hazards of poorly maintained exhaust systems on single engine airplanes and that provides pilot guidance on checks on exhaust system during operation of aircraft between required inspection. (Ref. 46 FR 21284, Apr. 9, 1981.)

A-81-35 (July 1).—A June 30, 1981, letter to all FAA Regional Flight Standards Division Chiefs requires additional emphasis on surveillance of operators of aircraft not equipped with a weather detection device or weather radar. Surveillance will include observation of conduct of flights with reference to hazardous weather. (Ref. 46 FR 21284, Apr. 9, 1981.)

A-81-36 through -38 (July 1).—FAA does not concur in these recommendations, which concern lift strut forks installed on Piper aircraft; to require replacement of all forks as recommended in A-81-36 is not justified. FAA cannot require the manufacturer to identify parts by an FAA-specified method, but FAA agrees with the intent of A-81-37, which is to provide operators and mechanics in the field with better identification of parts with rolled threads; FAA will meet with Piper to discuss this issue. To require, per A-81-38, small airplane owners/operators to have inspections performed by manufacturers and only certain other designated inspection stations, could create unnecessary expense, inconvenience, and confusion. FAA will revise AD 80-22-15 for purpose of simplification. (Ref. 46 FR 21284, Apr. 9, 1981.)

A-81-39 through -42 (June 26).—The required use of localizer facility distance measuring equipment (DME) when established on the final approach course to runway 3 at Spokane (Wash.) International Airport is adequately reflected, and FAA finds no justification for publishing a Notice to Airmen or for adding a precautionary note relative to this procedure. FAA has reviewed approach procedures where DME is installed at a localizer and finds the chart portrayal adequate. FAA and the National Ocean Survey are determining if the existing method of depiction can be improved. FAA will reemphasize the fact that multiple navigation aids may be required in utilization of an instrument procedure and will restate importance of proper navigation aid selection, tuning, and identification. (Ref. 46 FR 21284, Apr. 9, 1981.)

Other Recommendation Responses:

H-77-21, from the Federal Highway Administration (July 2).—FHWA's National Highway Institute now offers training course 80-15, "Selecting, Locating and Designing Traffic Barriers," based on the American Association of State Highway and Transportation Officials' publication of the same title. In addition to classroom training, 80 sets of self-teaching audio visual training packages on this subject have been distributed to FHWA regional and division offices and State highway departments. (Ref. 44 FR 17608, Mar. 22, 1979.)

P-77-27, from Exxon Gas System, Inc. (June 29).—Exxon reports that the period of torque verification from 4,500 to 9,000 operating hours will be extended, based on experience gained from 20 torque verifications performed since early 1978. Data shows that the torque verification period can be extended and still maintain present level of personnel and equipment safety. (Ref. 43 FR 1851, Jan. 12, 1978.)

R-81-31, from the American Public Transit Association (June 16).—APTA reports increased involvement with safety-related organizations and lists speakers at its recent annual Rapid Transit Conference. (Ref. 46 FR 20012, Apr. 2, 1981.)

R-81-41 through -47, from the Union Pacific Railroad Company (June 25).—Union Pacific contends that last October's rear-end train collision near Hermosa, Wyo., resulted from inattention of the engineer and head brakeman and "gross violation" of company operating rules and practices. Union Pacific says that its expensive tests, including actual test trains with NTSB personnel present,

proved safe operation under the rules and practices in effect at the time of the accident. (Ref. 46 FR 28772, May 28, 1981.)

R–81–54 through –58, from Conrail (July 1).—Under a stepped-up program for monitoring rules compliance by operators and dispatchers, during the first four months of 1981 Conrail increased its testing for compliance with blocking device rules by 71.7 percent over the same period of 1980. Conrail has increased concentration on rules compliance by newer employees. Regarding R–81–55, it is improper to permit operational safety to rely upon the possibility that one train will overhear radio communication intended for another train or base station. Conrail has already acted to implement R–81–56, providing Metropolitan Region operators with the ability to display a train order signal as required. (Ref. 46 FR 31950, June 18, 1981.)

On Nov. 14, 1980, the Safety Board, based on investigation of a 1978 corrosion leak in an inactive service line in Lafayette, La., recommended that the Research and Special Programs Administration, U.S. Department of Transportation, initiate rulemaking to prescribe a time limit when an inactive service line would be required to be abandoned and physically disconnected from the main (P–80–74). On Feb. 9 the Florida Public Service Commission informed the Board that its recommendation letter incorrectly referred to the State of Florida as having a regulation requiring service lines to be physically disconnected and purged of gas after having been inactive for 3 years. In reply on June 29 to the Commission, the Board states that a review of its file on the investigation of that accident shows that the reference to Florida was incorrect. (Ref. 46 FR 16367, Mar. 12, 1981.)

Note.—Copies of recommendation letters, responses, and related correspondence may be obtained free by writing to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

July 17, 1981

[FR Doc. 81–21618 Filed 7–22–81; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–458 and 50–459]

Gulf States Utilities Co., Cajun Electric Power Cooperative; Receipt of Antitrust Information

Gulf States Utilities Company, on behalf of itself and Cajun Electric Power Cooperative, has filed antitrust information for their application for operating licenses for the River Bend Station, Units 1 and 2. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate two boiling water reactors in West Feliciana Parris, Louisiana. The application contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. The remainder of the application for operating licenses is currently undergoing acceptance review. Following docketing, a notice will be published in the **Federal Register.**

Following completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial findings concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the application for operating licenses and the antitrust information submitted are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public Document Rooms at the Audubon Library, West Feciliana Branch, Ferdinand Street, St. Francisville, Louisiana and at the Louisiana State University, Government Document Department, Baton Rouge, Louisiana.

Any person who desired additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicant's activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before September 14, 1981.

Dated at Bethesda, Maryland, this 30th day of June 1981.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81–20862 Filed 7–15–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Arkansas Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR–51, which authorizes the operation of the Arkansas Nuclear One, Unit No. 1 (the facility) at steady-state power levels not in excess of 2568 megawatts thermal. The facility consists of a pressurized water reactor (PWR) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection for the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG–0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was

[1] Attachment: NUREG–0737 Requirements, available in NRC Public Document Room.

indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III

The licensee's submittals dated December 19 and 31, 1980, January 19, 1981 and February 5 and 27, 1981, which are incorporated herein by reference, committed to complete each of the actions specified in the Attachment. The licensee's submittals included a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittals and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff describes how the licensee is meeting the guidance of NUREG–0737. Therefore, this deferral of the licensee submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facility) as early as practicable but no later than 30 days after the effective date of the Order.

V

Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150–0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of July 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc.81–21607 Filed 7–22–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Power Co. (Oconee Nuclear Station, Units 1, 2, and 3); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

Duke Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, which authorize the operation of the Oconee Nuclear Station, Units 1, 2, and 3, (the facilities) at steady-state power levels not in excess of 2568 megawatts thermal for each unit. The facilities consist of pressurized water reactors (PWRs) located at the licensee's site in Oconee County, South Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirments include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection for the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG–0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III

The licensee's submittal dated December 15, 1980, and the references stated therein, which is incorporated herein be reference, committed to complete each of the actions specified in the Attachment. The licensee's submittal included a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittal and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff describes how the licensee is meeting the guidance of NUREG–0737. Therefore, this deferral of the licensee submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

[1] Attachment: NUREG–0737 Requirements, available in the NRC Public Document Room.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facilities) as early as practicable but no later than 30 days after the effective of the Order.

V

Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150-0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of July, 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-21608 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Order confirming Licensee Commitments on Post-TMI Related Issues

I.

Florida Power Corporation (the licensee) and eleven other co-owners are the holders of facility Operating License No. DPR-72, which authorizes the operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 2452 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Citrus County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulator Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG-0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG-0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III

The licensee's submittals dated December 15, 19 and 31, 1980, March 3, April 1, May 29, and July 3, 1981, which are incorporated herein by reference, committed to complete each of the actions specified in the Attachment. The licensee's submittals included a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittals and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff describes how the licensee is meeting the guidance of NUREG-0737. Therefore, this deferral of the licensee submittal will no alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facility) as early as practicable but no later than 60 days after the effective date of the Order.

V

Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for Hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

[1] Attachment: NUREG-0737 Requirements, available in NRC Public Document Room.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150–0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland, this 10th day of July 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 21609 Filed 7–22–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to clarify the term "Operable" as it applies to Safety Systems and Emergency Power and to make shutdown times consistent with Standard Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 21, 1980, (2) Amendment No. 40 to License No. DPR–72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of July 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81–21611 Filed 7–22–81; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–321 and 50–366]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2); Order Confirming Licensee Commitments on Post-TMI Related Issues

The Georgia Power Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–57 and NPF–5, which authorize the operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 (the facilities) at steady state reactor power levels not in excess of 2436 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection for the operation of nuclear facilities based on experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG–0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III

The licensee's submittals dated December 15 and 31, 1980, and January 13 and March 6, 1981, and the references stated therein, which are incorporated herein by reference, committed to complete each of the actions specified in the Attachment. The licensee's submittals included a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittal and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff decribes how the licensee is meeting the guidance of NUREG–0737. Therefore, this deferral of the licensee submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy

[1] Attachment: NUREG–0737 Requirements, available in NRC Public Document Room.

Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facilities) as early as practicable but no later than 30 days after the effective date of the Order.

V

Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information ws approved by OMB under clearance number 3150-0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of July 1981.

This order is effective upon issuance.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-21610 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

The amendment:

(1) Revises the Technical Specifications to support the operation of the Maine Yankee Atomic Power Station at full rated power during Cycle 6.

(2) Revises additional Appendix A Technical Specifications by:

a. Incorporating changes required by our letter dated April 20, 1981 regarding redundant barrier isolation of the primary coolant system from the low pressure safety injection system,

b. Incorporating changes to the reactor vessel fluence figures, and

c. Incorporating changes in method of disabling the safety injection tank isolation valves and corresponding loop isolation valves in the open position.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 13, March 25, April 28 and June 30, 1981, as supplemented, (2) Amendment No 58 to License No. DPR-36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of July, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-21612 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al. (Peach Bottom Atomic Power Station, Units Nos. 2 and 3); Order Confirming License Commitments on Post-TMI Related Issues

I

The Philadelphia Electric Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-44 and DPR-56, which authorize the operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facilities) at steady state reactor power levels not in excess of 3292 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in York County, Pennsylvania.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to proved substantial additional protection for the operation of nuclear facilities based on experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this

Order).[1] NUREG–0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III

The licensee's submittals dated December 22, 1980, and February 20, 1981, and the references stated therein, which are incorporation herein by reference, committed to complete each of the actions specified in the Attachment. The licensee's submittals included a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittal and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff describes how the licensee is meeting the guidance of NUREG–0737. Therefore, this deferral of the licensee submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facilities) as early as practicable but no later than 30 days after the effective date of the Order.

Any person who has an interest affected by this Order may request a hearing within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall be describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150–0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Maryland this 10th day of July 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-21613 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[1] Attachment: NUREG–0737 Requirements, available in NRC Public Document Room.

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 6–8, 1981, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on June 17 and July 22, 1981.

The agenda for the subject meeting will be as follows:

Thursday, August 6, 1981

8:30 a.m.–8:45 a.m.: Opening Session (Open)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities including selection and appointment of a new ACRS member and NRC action regarding ACRS budget and staffing requests for FY 1983.

Portions of this session will be closed as necessary to discuss information of a personal nature the release of which would constitute a clearly unwarranted invasion of personal privacy.

8:45 a.m.–12:30 p.m. and 1:30 p.m.–3:00 p.m.: Enrico Fermi Atomic Power Plant Unit 2 (Open)

The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed operation of this unit. The Committee will also hear and discuss reports from members of the NRC Staff and representatives of the Applicant concerning this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

3:00 p.m.–8:00 p.m.: Waterford Steam Electric Station Unit 3 (Open)

The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed operation of this unit. The Committee will also hear and discuss reports from members of the NRC Staff and representatives of the Applicant concerning this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

Friday, August 7, 1981.

8:30 a.m.–12:30 p.m. and 1:30 p.m.–3:00 p.m.: Susquehanna Steam Electric Station Units 1 and 2 (Open)

The Committee will hear the report of its Subcommittees and consultants who may be present regarding proposed operation of this unit and the program for resolution of problems regarding the Mark II type containment used in this type plant. The Committee will also hear and discuss reports from members of the NRC Staff and representatives of the Applicant concerning this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

3:30 p.m.–4:00 p.m.: Discuss Items for Meeting with NRC Chairman and Commissioners (Open/Closed)

The members will consider those items to be discussed with the NRC Chairman and other Commissioners who may have an interest. Topics will include the status of the appointment of a new ACRS member, clarification of the Commission request for ACRS review of the proposed NRC program to evaluate alternate materials for radwaste disposal containers, and to respond to questions the Commissioners may have regarding the ACRS report (NUREG–0795) on the proposed NRC Safety Research Program budget for FY 1983.

Portions of this session will be closed as necessary to discuss information of a personal nature the release of which would constitute a clearly unwarranted invasion of personal privacy.

4:00 p.m.–5:00 p.m.: Meeting with NRC Chairman and Other Commissioners (Open/ Closed)

The Committee will meet with the NRC Chairman and other Commissioners who may have an interest to discuss items noted above.

Portions of this session will be closed as necessary to discuss information of a personal nature the release of which would constitute a clearly unwarranted invasion of personal privacy.

5:00 p.m.—6:00 p.m.: Proposed NRC Regulation (10 CFR 50.49) on Environmental and Seismic Qualification of Electrical Equipment Important to Safety (Open)

The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding this proposed NRC rule. Representative of the NRC staff and the nuclear industry will participate as appropriate.

6:00 p.m.—6:30 p.m.: Quantitative Safety Goals (Open)

The Committee will hear and discuss the report of its Subcommittee on Probabilistic Risk Assessment regarding the development and use of quantitative safety goals in the regulation of nuclear facilities.

6:30 p.m.—8:00 p.m.: Preparation of ACRS Reports (Open)

The committee will discuss proposed ACRS reports regarding projects considered during this meeting.

Saturday, August 8, 1981

8:30 a.m.—12:30 p.m. and 1:30 p.m.—3:30 p.m.: Preparation of ACRS Reports (Open)

The Committee members will discuss proposed ACRS comments/reports regarding matters considered during this meeting. The Committee will also discuss its proposed schedule for future activities.

Portions of this session will be closed as necessary to permit discussion of Proprietary Information.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: July 20, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-21617 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443, 50-444]

Public Service Co. of New Hampshire, et al., (Seabrook Station, Units 1 and 2); Issuance of Director's Decision (DD-81-14)

On February 11, 1980, the Director of Nuclear Reactor Regulation denied under 10 CFR 2.206 a petition filed by the Seacoast Anti-Pollution League (SAPL). *See* DD–80–6, 11 NRC 371 (1980). While the Director's decision was pending before the Commission for possible review, SAPL filed a letter on June 30, 1980, before the Commission in support of its petition. Although the Commission declined to review the Director's decision, the Commission referred SAPL's June 30th letter to the Director for consideration as a separate petition under 10 CFR 2.206. SAPL's June 30th letter essentially reiterates its earlier request for institution of proceedings to suspend or revoke the permits issued to Public Service Company of New Hampshire for construction of the Seabrook Station. SAPL's June 30th letter raises issues concerning emergency planning and evacuation as the basis of its request. The Commonwealth of Massachusetts filed a memorandum in support of SAPL's request on March 13, 1981.

Upon consideration of the information provided by SAPL and the Commonwealth of Massachusetts, I have determined not to institute the requested proceeding. The reasons for this decision are set forth in a "Director's Decision Under 10 CFR 2.206", which is available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Md., this 15th day of July 1981.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 81-21614 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District, (Rancho Seco Nuclear Generating Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I. Sacramento Municipal Utility District (the licensee) is the holder of Facility Operating License No. DPR–54, which authorizes the operation of the Rancho Seco Nuclear Generating Station (the facility) at steady-state power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California.

II. Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set

forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardward modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG–0737 was transmitted to each licensee and applicant by NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III. The licensee's submittals dated November 17 and 18, 1980, December 15, 1980, January 16, 1981, February 26, 1981, and July 3, 1981, committed to complete each of the actions specified in the Attachment. The licensee's submittals include a modified schedule for submittal of certain information. The staff has reviewed the licensee's submittals and determined that the licensee's modified schedule is acceptable based on the following:

The licensee's schedule for submittal of information in some instances does not meet the staff's specific submittal dates. Most of the information requested by the staff describes how the licensee is meeting the guidance of NUREG–0737. Therefore, this deferral of the licensee submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest of public health and safety, and therefore, should be confirmed by Order.

IV. Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensee shall comply with the following conditions:

The licensee shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensee's facility) as early as practicable but no later than 60 days after the effective date of the Order.

V. Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensee, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensee or other persons who have an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensee should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150–0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, MD., this 10th day of July 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-21615 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

[1] Attachment: NUREG–0737 Requirements, available in NRC Public Document Room.

[Docket No. 50–346]

Toledo Edison Co. and Cleveland Electric Illuminating Co., (Davis-Besse Nuclear Power Station, Unit No. 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I. The Toledo Edison Company (TECo) and The Cleveland Electric Illuminating Company (licensees) are the holders of Facility Operating License No. NPF–3, which authorizes the operation on the Davis-Besse Nuclear Power Station, Unit No. 1, at steady-state power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Ottawa County, Ohio.

II. Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensees, scheduled to be completed on or before June 30, 1981 (see the Attachment to this Order).[1] NUREG–0737 was transmitted to each licensee and applicant by an NRC letter from my office dated October 31, 1980, which is hereby incorporated by reference. In that letter, it was indicated that although the NRC staff expected each requirement to be implemented in accordance with the schedule set forth in NUREG–0737, the staff would consider licensee requests for relief from staff proposed requirements and their associated implementation dates.

III. The licensees' submittals dated December 30, 1980, and July 6, 1981, which are incorporated herein by reference, committed to complete each of the actions specified in the Attachment. The licensees' submittals included a modified schedule for submittal of certain information. The staff has reviewed the licensees' submittals and determined that the licensees' modified schedule is acceptable based on the following:

The licensees' schedule for submittal of information in some instances does not meet the staff's specified submittal dates. Most of the information requested by the staff describes how the licensees are meeting the guidance of NUREG–0737. Therefore, this deferral of the licensees' submittal will not alter the implementation of plant modifications. Therefore, plant safety is not affected by this modification in schedule for the submittal of information.

I have determined that these commitments are required in the interest

[1] Attachment: NUREG–0737 Requirements, available in NRC Public Document Room.

of public health and safety, and therefore, should be confirmed by Order.

IV. Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensees shall comply with the following conditions:

The licensees shall satisfy the specific requirements described in the Attachment to this Order (as appropriate to the licensees' facility) as early as practicable but no later than 60 days after the effective date of the Order.

V. Any person who has an interest affected by this Order may request a hearing on or before August 12, 1981. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request should also be sent to the Executive Legal Director at the same address. If a hearing is requested by a person other than the licensees, that person shall describe, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which the interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested by the licensees or other persons who ave an interest affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, on the basis of the information set forth in Sections II and III of this Order, the licensees should comply with the conditions set forth in Section IV of this Order.

This request for information was approved by OMB under clearance number 3150–0065 which expires June 30, 1983. Comments on burden and duplication may be directed to the Office of Management and Budget, Reports Management, Room 3208, New Executive Office Building, Washington, D.C.

Dated at Bethesda, Md., this 10th day of July 1981.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nulcear Reactor Regulation.

[FR Doc. 81-21616 Filed 7-22-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
An estimate of the cost to the public;
The number of forms in the request for approval;
An indication of whether Section 3504(h) of Pub. L. 96–511 applies;
The name and telephone number of the person or office responsible for OMB review; and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of you intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please end them to Jim J. Tozzi, Deputy Administator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

- Bureau of the Census
- Special Census Enumeration Schedule and Address Register
- SC–19 & SC–19A
- Other—See SF83
- Individuals or households

Individual households
Other advancement and regulation of commerce: 1 response; 1 hour; 2 forms; not applicable under 3504(H)
Office of Federal Statistical Policy and Standard, 202–673–7974

Provides current population and housing counts for local governments between the decennial censuses.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

NEW

• Department and Others
Significant AA&E Incident Report
DIS 91
On occasion, annually
Businesses or other institutions
Department of Defense AA&E Contractors
SIC: Multiple
Department of Defense—Military: 35 responses; 35 hours; $429 Federal cost; 1 form; not applicable under 3504(H)
Kenneth B. Allen, 202–395–3785

The information will serve as a record of thefts/losses of AA&E in the custody or possession of DOD contractors. Information will provide a basis for determining/identifying trends and magnitude of AA&E losses. It will also assist in evaluating adequacy of contractor's physical safeguards and in prescribing corrective action where appropriate.

• Department of the Air Force
Community Response to Air Force Noise
Nonrecurring
Individuals or households
Individual households
Department of Defense—Military: 650 responses; 435 hours; $82,000 Federal cost; 1 form; not applicable under 3504(H)
Edward C. Springer, 202–395–4814

(Air installation compatability use zones) testing validity of air installation compatability use zones predicted noise exposure contours. Present noise indexes (LDN) are based on best available judgments. Noise contours are used in land acquisition and operations planning. Present indexes will be tested and new methods for combining noise exposures and community reactions could result.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

NEW

• Office of Postsecondary Education
Federal Loan Transaction Statement
Guaranteed Student Loan Program
ED 1199
Monthly
Businesses or other institutions
Businesses and other institutions not engaged in deposit banking
SIC: 822 601 602 603 604 605
Small businesses or organizations
Higher education: 144,000 responses; 216,000 hours; $11,000 Federal cost; 1 form; not applicable under 3504 (h)
Federal Education Data Acquisition Council 202–426–5030

This form is used by Ed's guaranteed student loan branch to bill lenders for insurance primiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

• Office of Educational Research and Improvement
National Assessment of Educational Progress Citizenship/Social Studies, Mathematics and Science Assessments
Sept. 1981–Aug. 1982
2371–13A–13I 13SLF 13SSR–13PQ 13SOQ 13QC 13TEQ
Biennially
Individuals or households/State or local governments
9, 13, 17 year old students, and school officials
SIC: 821
Research and General education aids: 81,850 responses; 27,559 hours; $5,521,338 Federal cost; 1 form; not applicable under 3504 (h)
Federal Education Data Acquisition Council, 202–426–5030

Congress has mandated the collection of national assessment survey data. The data collection will occur during the 1981–82 school year in the areas of citizenship/social studies, mathematics and science with respondent ages 9, 13, and 17. The data will be used by policy makers to monitor changes in student performance over time in the United States. The data will be useful to the public, researchers, legislators and educators in determining changes in education.

Extensions (No Change)

• Office of Postsecondary Education
Teacher Exchange Program—Application Package
OE 356 356–1–2–3
Annually
Individuals or households
Hers and Education personnel at all levels
Higher education: 2,100 responses; 1,500 hours; $194,500 Federal cost; 4 forms; not applicable under 3504 (h)
Federal Education Data Acquisition Council, 202–426–5030

To be used by applicants under the fiscal year 1982 teacher exchange program which provides opportunities for U.S. teachers to exchange positions for an academic year with foreign counterparts or to attend one of a variety of short-term seminars worldwide on a variety of topics.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202–633–9464

Extensions (Burden Change)

• Federal Energy Regulatory Commission
Reserve Dedication Report
FPC 334
On Occasion
Businesses or other institutions
Natural gas pipelines
SIC: 492
Small businesses or organizations
Energy information, policy, and regulation: 104 responses; 52 hours; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Used to provide a method of reporting to FERC dedications of new gas to obtain credit toward the discharge of refund obligations of producers and toward the contingent escalation of area rates

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Alcohol, Drug Abuse, and Mental Health Administration
National household Survey on Drug Abuse
ADM T 16–1 ADM T 16–2
Biennially
Individuals or households
12 years or older family members in coterminous U.S.
Health: 5,500 responses; 4,583 hours; $1,000,000 Federal cost; 3 forms; not applicable under 3504 (h)
Gwendolyn Pla, 202–395–6880

The 1981–82 national survey on drug abuse consists of personal interviews with approximately 5,500 respondents aged 12 and older randomly selected from the household population of the coterminous U.S. findings will provide prevalence estimates and be used by Federal and State agencies to determine policy and strategy for education, prevention and treatment programs.

• Centers for Disease Control
Request for Health Hazard Evaluations—Contents of a Request for Health Hazard Evaluation
NIOSH 286 NIOSH 2108
On occasion
Businesses or other institutions
Representatives (general industry and mining)
SIC: Multiple

Small businesses or organizations
Health: 650 responses; 130 hours; $2.000 Federal cost; 2 forms; not applicable under 3504 (h)
Gwendolyn Pla, 202–395–6880

Application form for requesting health hazard evaluation/technical (assistance general industry and mining).

• Food and Drug Administration
Protection of human subjects (recordkeeping requirements for Institutional Review Boards)
On occasion
Businesses or other institutions
Biomedical research institutions
SIC: 739 892
Consumer and occupational health and Safety: 14,600 responses; 17,520 hours; $735,073 Federal cost; 1 form; not applicable under 3504 (h)
Gwendolyn Pla, 202–395–6880

Documentation of IRB activities and retention of those records is necessary for FDA to be able to assess compliance with regulations during inspections.

• Human Development Services
Performance and Financial Status Report for Title VI
Quarterly
Businesses or other institutions
Federally recognized Indian tribes
SIC: 835
Multiple Functions: 340 responses: 680 hours; $6,800 Federal cost; 2 forms; $6,800 Public cost; not applicable under 3504 (h)
Gwendolyn Pla 202–395–6880

(1) Monitor program operations (2) establish program operations, growth and output (3) provide U.S. Department of Agriculture with specific data elements to formulate entitlements mandated under the FNS program (4) prepare responses to Congress, OMB, GAO, and other Federal, public, and private agencies.

• Social Security Administration
State Plan for Refugee Resettlement
OS–9–81
On occasion
State or local governments
State refugee resettlement programs
SIC: 944
Public assistance and other income supplements: 50 responses; 2,400 hours; $2,000 Federal cost; 1 form; not applicable under 3504 (h)
Barbara F. Young, 202–395–6880

As a condition for receipt of funds under the refugee resettlement program, a State must submit a plan which satisfies the requirements in section 412(A)(6) of the Immigration and Nationality Act.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331.

New

• Employment and Training Administration
Win status change notice
ETA–597
On occasion
State or local governments
Governments are local win projects
SIC: 944
Training and employment: 1,900,000 responses; 95,000 hours; $155,140 Federal cost; 1 form; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

The 597 provides a format for recording win registrant status and activity in the win program from entry into employment deregistration and subsequent follow through. It is the principal document utilized in entering win E & T client activity in the employment and security ads and ESARS. It is also used to transmit information on the registrant's progress between the IMU, SAU and E & T agency.

• Employment and Training Administration
Win employability plan & certification record
ETA–596
On occasion
Individuals or households/State or local governments
Government local win project
SIC: 944
Training and employment: 845,000 responses; 70,389 hours; $1,491 Federal cost; 6 forms; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

This form provides a format for summarizing information secured in the appraisal and employability plan, and provides a place for registrants to sign, indicating their agreement with employability plan, and a place for an assurance by the SAU that register is certified. The subject form is used by both SAU and E & T agency. It facilitates entry of social services data into ESARS, and exchange of information between SAU and E & T Agency.

• Employment Standards Administration
A study of accommodations provided to handicapped employees by Federal contractors
ESA–103–T
Nonrecurring
Individuals or household/businesses or other institutions
Fed'l contrs. in manufacturing & handicapped employees
SIC: 200, 399, 600, 899
Small Businesses or organizations
Other labor services: 1,725 responses; 572 hours; $206,620 Federal cost; 4 forms; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

By measuring the extent, nature, and costs of accommodation that have been provided for handicapped workers, DOL will evaluate impacts of current policy and effectively link forthcoming policy and regulations to economic reality. By gathering information on accommodation processes and technologies, DOL will build a strong technical assistance capability.

• Employment Standards Administration
Request for earnings information
LS–426
On occasion
Individuals or households
Recipients of Longshore and Harbor Worker's Compensation
Income security: 2,400 responses; 600 hours; $3,200 Federal cost; 1 form not applicable under 3504(h)
Arnold Strasser, 202–395–6880

Report gathers information regarding injured employees average weekly wage. This information is required for determination of compensation amounts in accordance with section 10 of the Longshoremen's and Harbor Workers' Compensation Act.

Revisions

• Employment and Training Administration
Win registration record
ETA–595
On occasion
Individuals or households/State or local governments
Indiv. resp. are AFDC appl. & recip. regis. for Win, etc.
SIC: 944
Training and employment: 990,500 responses; 41,271 hours; $215 Federal cost; 1 form; $412,710 public cost; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

This form is used with registrants to provide (1) a written explanation of the Win program—its purpose, the difference between mandatory and voluntary registrants, (2) an explanation of rights & responsibilities, (3) a place for identifying information on the registrant (case No., address, etc.) and (4) a place for the registrant's and interview's signatures. It ensures that registrants have written proof of their registration.

Extensions (burden change)

• Departmental Management
Standard questionnaire for manufacturing firms
ILAB A–B–C
On occasion
Businesses or other institutions
Manufacturers
SIC: multiple
Small businesses or organizations
Other labor services: 405 Responses; 1,620 hours; $1,650 Federal cost; 1 form; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

Data and information needed to prepare report to president under sections 202 and 224 of the Trade Act of 1974 which used in determining type of import relief granted import impacted industries.

• Departmental Management
Petition for adjustment assistance ILAB 20 (revised). ILAB 20–1 (Spanish)
On occasion
Individuals or households/businesses or other institutions
Firms/businesses or officers of unions rep. indv. workers
SIC: multiple
Other labor services: 1,800 responses; 450 hours; $18,000 Federal cost; 2 forms; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

Petition used by American workers applying to the U.S. Department of Labor for eligibility to receive worker trade adjustment assistance in accordance with the provisions of the Trade Act of 1974. The petition initiates action on part of the Department to determine if the worker is eligible.

Reinstatements

• Employment and Training Administration
Impact evaluation of youth incentive Entitlement pilot project—Wave IV
ETA–13
Nonrecurring
Businesses or other institutions
Youth in pilot and control sites
Training and employment: 4,558 responses; 3,798 hours; $1,600,000 Federal Cost; 1 form; $37,980 public cost; not applicable under 3504(h)
Arnold Strasser, 202–395–6880

This is the third and final followup survey of a youth sample assembled in 1978 to test the impacts of the youth incentive entitlement pilot project on elilgible youth participants. Key impact findings are expected in education and employment improvements and are crucial to the development of youth program planning and policy development.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887.

New

• Urban Mass Transportation Administration
Progress reports
Quarterly
State or local governments/businesses or other institutions
Pulic and private mass transportation agencies
SIC: 411
Ground transportation: 3,000 responses; 450,000 hours; $200,000 Federal cost; 2 forms; not applicable under 3504 (h)
Mahesh Podar, 202–395–7340

Progress reports are required by OMB circular A–102 and A–110 and UMTA circular 5010.1. Reports are submitted quarterly to UMTA regional offices and describe current and proposed project activities.

• Federal Aviation Administration
Application for parking permits at IAD or DCA
MA 1780–1 & 2, MA 4665–1
On occasion
Individuals or households
Gov. & Non-Gov, employees who park POVS at National & Dulles
Air transportation: 26,000 responses; 2,165 hours; $65,000 Federal costs; 3 forms; not applicable under 3504 (h)
Mahesh Podar, 202–395–7303

The data requested by FAR 159.23 is required to determine applicant's eligibility for an airport parking permit. To maintain record of people authorized to park on the airport, and to determine the need for and utilization of airport employee parking spaces.

• Coast Guard
Declaratioin of inspection
On Occasion
Businesses or other institutions
Owners & oper. of ves. & fac. that transfer oil inbulk
SIC: 441, 442
Small businesses or organizations
Water transportation: 200,000 responses; 16,000 hours; $19,000 Federal cost; 0 form; not applicable under 3504 (h)
Mahesh Podar, 202–395–7340

33 USC 1321—The coast Guard has determined that to prevent pollution by oil of the navigable waters of the U.S. detailed procedures must be followed during oil transfer operations at facilities and on board vessels. This report/recordkeeping requirement provides a tool to check for regualtory compliance.

Extensions (burden change)

• Federal Aviation Administration
Certification and operations: air carriers and commercial operators of large aircraft—FAR 121
FAR 121
On occasion
Businesses or other institutions
Air carriers
Air transportation: 23,407,318 responses; 6,836,857 hours; $1,798,200 Federal cost; 0 form; not applicable under 3504 (h)
Mahesh Podar, 202–395–7340

Federal Aviation Act of 1958, section 604 (49 USC 1424), authorizes issuance of air carrier operating certificates. 14 CFR 121 prescribes regulations governing air carrier operations. Information collected is used to determine compliance and applicant eligibility.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394.

Mew

• Internal Revenue Service
Federal tax deposit
Weekly, monthly, quarterly
State or local governments/farms/businesses or other institutions
All taxpayers required to make deposits under FTDS.
SIC: All
Small businesses or organizations
Central fiscal operations: 58,000,000 responses; 1,578,000 hours; $12,278,710 federal cost; 1 form; not applicable under 3504 (h)
Kevin Broderick, 202–395–6880

The Federal tax deposit (FTD) form is used by taxpayers to deposit the required taxes at authorized financial institutions or federal reserve banks or branches. The depositary sends the card to the IRS center where the deposited amount is credited to the depositor's tax account. The data is used to make the credit and to verify the tax deposit claimed on a return.

ACTION

Agency Clearance Officer—Mr. Don Romine—202–254–8523.

New

• Senior Companion Program Impact Evaluation Phase III
On occasion
Individuals or households
SCP volunteers. clients & people wishing to become volntrs
Social services: 615 responses; 513 hours; $95,400 Federal cost; 1 form; not applicable under 3504 (h)
Diane Wimberly, 202–395–6880

This is the second-year assessment of a previously approved three-year, longitudinal study of the impact of participation in the senior companion program (SCP), either as a vol or ascipient of volunteer services. The focus is on changes in the functional abilities of the individuals involved.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513.

Revisions

• Application for authorization in the Auxiliary Radio Broadcast Services
313
On occasion
Businesses or other institutions
Licensees of AM, FM or TV broadcast stations
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 3,200 responses; 16,000 hours; $77,029 Federal cost; 1 form; not applicable under 3504 (h)
Willian T. Adams, 202–395–4814

Filing is required when applying for authority for remote pick-up, stl, or other station coming under the auxiliary radio broadcast services. The data is used to determine whether the proposal will serve the public interest.

Extensions (Burden Change)

• Application for a new or Modified Common Carrier Microwave Radio Station License Under Part 21
436
On occasion businesses or other institutions
Common carriers req. microwave radio station licenses
SIC: 481,482,489
Small businesses or organizations
other advancement and regulation of commerce: 3,200 responses; 1,600 hours; $132,918 Federal cost; 1 form; not applicable under 3504 (h)
William T. Adams, 202–395–4814

Application is required of common carriers when applying for a new or modified common carrire microwave radio station license. It is used by the FCC to venaluate construction status and authorize the operation of point-to-point microwafe, local TV transmission, and multipoint distribution radio stations.

• Application for Periodic Inspection
Form 812
Biennially
Businesses or other institutions
Shipboard station licensees
SIC: 442
Other advancement and regulation of commerce: 1,700 responses; 142 hours; $3,500 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Form needs to be submitted by the licensee to request an inspection of a shipboard station. Data is used by the inspecting office to gather information to conduct the inspection.

Extensions (No Change)

• Application for Renewal of Radio Station License in Specified Services
405
Other—see SF83
Businesses or other institutions, domestic public radio services
SIC: 481, 482, 489
Small businesses or organizations
Other advancement and regulation of commerce: 2,700 responses; 1,350 hours; $148,514 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Application must be filed by the licensee between 30 and 60 days prior to the expiration date of the license sought to be renewed. The data is used to renew authorization for current licensees.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—202–389–4481.

Extensions (No Change)

• Part 335—Securities of insured State Nonmember Banks F–1, F–2, F–3, F–4, F–5, F–6, F–7, F–8, F–11, F–11A, F–12, F–13
Nonrecurring, on occasion, quarterly, annually
individuals or households/businesses or other institutions
insured State nonmember banks with assets over $1,000,000
SIC: 602
Small businesses or organizations
Mortgage credit and thrift insurance; 15,946 responses; 107,061 hours; $330,050 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Information collected is required by Securities Exchange Act of 1934 and regulations and rules prescribed thereunder by Sec. Information, available for public inspection and in some cases required to be furnished to security holders, is designed to help public make intelligent investment decisions and is also used for supervisory purposes.

• Foreign Branch Report of Condition
Annually
Businesses or other institutions
U.S. chartered commercial banks with foreign branches.
SIC: 602
Small Businesses or organizations
Mortgage credit and thrift insurance: 23 responses; 69 hours; $500 Federal cost; 1 form; $1,725 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

The report contains asset and liability information for foreign branches of State insured nonmember banks and is required for regulatory and supervisory purposes. It is used in examination planning and in determining the composition of assets and liabilities and overall banking trends. An identical report is collected by the Comptroller of the Currency and the Federal Reserve System.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—202–452–3512

Revisions

• Monthly Survey of Variable Interest Rate Ceiling Time
Deposits
FR 2042
Other—see SF83
Businesses or other institutions
Sample of insured commercial banks and mutual savings banks
SIC: 602, 603
Small Businesses or organizations
General government: 5,264 responses; 3,527 hours; $31,740 Federal cost; 1 form; $52,905 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

These data are used by the Federal Reserve Board (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of depository, institutions. These data provide the Federal Reserve Board and the Depository Institutions Deregulation Committee (DIDC) with a factual basis for appraising the effects of interest rate ceilings and for monitoring.

• Survey of Time and Savings Deposits
FR 2296
Quarterly
Businesses or other Institutions
Sample of insured commercial banks
SIC: 602
Small businesses or organizations
General government: 2,200 responses; 7,920 hours; $38,000 Federal cost; 1 form; $118,800 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

These data are used by the Federal Reserve Board (1) to analyze and interpret movements in the monetary

aggregates, (2) to observe competitive developments between banks and thrift institutions for various classes of deposits. These data provide the Federal Reserve Board and the Depository Institutions Deregulation Committee (DIDC) with a factual basis for appraising the effects of interest rate ceilings and for monitoring the impact of the gradual removal of such.

• Bank Merger Application
FR 70
On occasion
Businesses or other institutions
Commercial banks insured by the Federal Deposit Ins. Corp.
SIC: 602
Small businesses or organizations
General government: 25 responses; 900 hours; $100,000 Federal cost; 1 form; $225,000 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

To provide current information for analysis on respondents' overall condition, competitive aspects of the proposed merger and enhancement of the convenience and needs of the community (IES) involved in accordance with the Bank Merger Act.

• Application for membership
FR 83
On occasion
Businesses or other institutions
Nonmember State banks and mutual savings banks.
SIC: 602
Small businesses or organizations
General government: 50 responses; 900 hours; $150,000 Federal cost; 1 form; $337,500 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

To provide managerial, financial, and structural data relative to the financial needs, and convenience of the community to be served, for analysis pursuant to the Federal Reserve Act, and the board's regulation H.

Extensions (No Change)

• Report of Certain Eurocurrency Transactions
FR 2950 FR 2951
Weekly
Businesses or other institutions
Depository institutions
SIC: 602, 603, 612, 614, 605
Small businesses or organizations
General government: 28,496 responses; 28,496 hours; $938,712 Federal cost; 2 forms; $427,440 public cost; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

These reports collect information on Eurocurrency deposits from depository institutions that obtain funds from foreign (non-U.S.) sources or that maintain foreign branches. Reports are used to insure compliance with Federal Reserve regulation D, as authorized by the Monetary Control Act of 1980. These data are used to calculate reserve requirements and to estimate nondeposit sources of funds.

• Report of Transaction Accounts, Other Deposits and Vault Cash
FR 2900
Weekly, quarterly
Businesses or other institutions
Depository institutions
SIC: 602, 603, 612, 614
Small businesses or organizations
General government: 772,440 responses; 3,962,617 hours; $6,336,538 Federal cost; 1 form; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Report collects deposits data from depository institutions that have transaction accounts or nonpersonal time deposits. This report is used to insure compliance with Federal Reserve regulation D on reserve requirements as authorized by the Monetary Control Act of 1980 and to provide information for monetary policy purposes. These data are used to calculate reserve requirements and to estimate monetary aggregates.

• Allocation of Low Reserve Tranche on Transaction Accounts for U.S. Branches and Agencies of Foreign Banks and Edge Act and Agreement Corporations
FR 2930
On occasion, annually
Businesses or other institutions
Banks and agreement corps. more than one Federal Reserve District
SIC: 605
Small Businesses or organizations
General Government: 431 responses; 108 hours; 1 form; not applicable under 3504(h)
Kevin Broderick; 202–395–6880

In calculating reserve requirements for transaction accounts, which are reported on the FR 2900, the first $25 million of such deposits (the low reserve tranche) are reserved at a lower ratio than amounts in excess of $25 million. This report collects information on the allocation of this tranche from all U.S. branches and agencies of foreign banks and from Edge Act and agreement corporations that have offices located in more than one State or Federal Reserve District.

• Form F–2 Annual Report to Security Holders
F–2
On occasion, quarterly
Individuals or households/businesses or other institutions
State banks listed on national securities exchanges
SIC: 602
General government: 1,615 responses; 10,910 hours; $95,000 Federal cost; 15 forms; not applicable under 3504(h)
Kevin Broderick, 202–395–6880

Information collected is required by Securities Exchange Act of 1934 and regulations and rules prescribed there under by sec. information available for public inspection and in some cases required to be mailed to security holders, is designed to help public make intelligent investment decisions and is also used for supervisory purposes.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Office—John F. Gilmore—202–566–1164.

New

• Employee Parking Claims Form
Nonrecurring
Individuals or Households
Fac., etc.
Other advancement and regulation of commerce; 170,000 response; 85,000 hours; $1,150 Federal cost; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

In accordance with U.S. District Court order, this form will be used to collect data from Federal employees for fees paid to the Government pursuant to OMB Circular A–118 and FPMR Temporary Regulation D–65.

• Building Service Contractor Work Report
GSA 3430
Weekly
Individuals or Households
Bus. firms or indiv. prov. services under contr. by GSA
Small businesses or organizatons
General property and records management: 28,080 responses; 14,040 hours: $501,973 Federal cost; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

The GSA form 3430, Building Service Contractor Work Report, is required to improve GSA's procedures for administering building service contracts such as janitorial, guard, and related services. It is used to record and certify productive hours worked.

Extensions (Burden Change)

• Statement of Financial Information
GSA 534
On occasion
Businesses or other institutions
Prospective contractors
SIC: all
Small businesses or organizations

General Property and records management: 7,500 responses; 15,000 hours; $375,000 Federal cost; $225,000 public cost; 1 form; not applicable under 3504(H)
Franklin S. Reeder, 202–395–3785

The form is necessary for the proper performance of the agency's functions in evaluating the financial capabilities of prospective contractors that deal with GSA. This form provides the Office of Finance with the necessary fiancial information to complete its evaluation of the prospective contractors.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202–632–7737.

Reinstatements

• Application To Be Listed Under Voting Rights Act
CSC 805–T
On occasion
Individuals or Households
Adults in cert. st. who desire to be Fed. listed to vote
Central Personnel Management: 1,000 responses; 333 hours; $2,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Under the Voting Rights Act of 1964, the Department of Justice may request OPM to examine the qualifications of persons to vote. The OPM form 805 series elicits information from which this determination can be made. If eligible, the person's name is certified to appropriate State officials for addition to the official voting lists.

SELECTIVE SERVICE SYSTEM

Agency Clearance Officer—Clarence E. Boston—202–724–0683.

New

• Request for Survey of SSS Registrants
Other—see SF83
Individals or households
Random sample of draft age persons in form SMSA's
Defense-related activities: 140 responses; 350 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Compliance rates for the continuous registration process have been declined during the past six months. The proposed research will enable us to identify the causes of noncompliance and structure programs to correct the problem.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615–857–2596.

New

• 1981 Commercial and Industrial (Energy) Survey: Customers of Local Electric Utilities Distributing TVA Power
Nonrecurring
Businesses or other institutions
Clas. (Known SIC Code) and unclas. (SIC code unknown), etc.
SIC: multiple
Small businesses or organizations
Energy supply: 4,680 responses; 2,903 hours; $595,725 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

To forecast future power requirements, the TVA needs information on current and projected energy consumption and conservation in the Valley for commercial and industrial firms. This information will also be used for TVA program planning and its scheduled for collection between September 1981 and December 1981.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202–389–2146

Extensions (No Change)

• VA Report of Nursing Home Care
10–1204B
Monthly
Business or other institutions
Public or private nursing homes
Small businesses or organizations
Hospital and medical care for veterans: 96,000 responses; 16,000 hours; $189,112 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Required by Title 38, U.S.C. 210e(1), to collect information on veterans in community nursing homes under title 38 U.S.C. 620. Reports on veteran's general condition, reaction to treatment plans and recommends whether nursing home care should be continued. Also used for quality control or services and in planning for veteran's future needs.

C. Louis Lincannon,

Assistant Administrator for Reports Managment.

[FR Doc. 81–21625 Filed 7–22–81; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[812–4685; Rel. No. 11861]

IMS Variable Leverage Fund, Ltd.; Filing of Application

July 17, 1981.

Notice Is Hereby Given that IMS Variable Leverage Fund, Ltd., 16929 East Enterprise Drive, (P.O. Box 17989), Fountain Hills, Arizona 85268, a Nebraska Limited Partnership ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 17, 1981 ("Amended Application") pursuant to Section 6(c) of the Act requesting an order of the Commission amending a previous order of the Commission dated August 6, 1980 (Investment Company Act Release No. 11288), which granted Applicant an exemption from the provisions of Sections 2(a)(3), 2(a)(19) and 22(e) of the Act to the extent necessary to permit Applicant to operate using the limited partnership form. That order was granted subject to the condition of the continued effectiveness of several undertakings which Applicant had made in its Application, one of which was Applicant's obtaining an errors and omissions insurance policy up to a maximum amount of $5 million with a $10,000 deductible for any one claim, and a stockbrokers' blanket bond in the amount of $10 million. The requested amended order would reduce the amounts of errors and omissions insurance and fidelity bond coverage required to be maintained by Applicant. All interested persons are referred to the Amended Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The investment objective of Applicant is providing investors with capital appreciation and modest annual distributions of income. Applicant seeks to achieve its investment objective by investing in a diversified portfolio of common stocks or securities convertible into common stock, or (for defensive purposes or for temporary periods) in non-convertible fixed obligations. Applicant was organized as a limited partnership in order to acrue certain tax benefits for its investors which would not be available if Applicant were organized in corporate form. Specifically, because Dr. Herbert W. Robinson and members of his family would initially be, and were as of May 31, 1981, beneficial owners of

substantially all the outstanding shares of Applicant, had Applicant been organized as a corporation (since more than 50 percent of its shares were held by members of the Robinson Family and the four other largest shareholders of Applicant) it would have been classified as a personal holding company under the Internal Revenue Code subject to corporate tax on income and a substantial penalty tax on undistributed income. The Robinson Family's initial contribution of cash and securities in return for shares of Applicant were valued at $3,803,533. Applicant has stated in both its Original and Amended Application that it is committed to convert to corporate form when the aforementioned investment of the Robinson Family and the four other largest investors amounts to no more than 40 percent of Applicant's outstanding shares. Dr. Herbert W. Robinson and IMSC as of May 31, 1981, owned 76.16% of Applicant's outstanding shares, having a value of $3,005,877. Applicant estimates that conversion will become possible when Applicant's net assets reach approximately $12,000,000, assuming that investment by the other four largest investors will average $200,000.

Applicant's Original Application stated that its organization, pursuant to its agreement of limited partnership, provides (1) for the general partners of Applicant to consist of three Director General Partners and Adviser General Partner; (2) that Applicant will be managed solely by the Director General Partners except in certain circumstances; and (3) only individuals may serve as Director General Partners. Director General Partners will perform the same functions as directors of incorporated investment companies. Applicant further stated in its Original Application that its organization is such that the Adviser General Partner, International Management Systems Corporation ("IMSC"), in its capacity as such, is excluded from participation in the management of Applicant except in limited circumstances. In its capacity as investment adviser, however, IMSC will have authority to act on behalf of Applicant to the extent provided in its advisory agreement.

Furthermore, Applicant's Original Application stated that according to the limited partnership agreement Applicant's limited partners have no right to control Applicant's business, but may exercise certain rights and powers of a limited partner under the partnership agreement, including voting rights, and the giving of consents and approvals provided for in the partnership agreement. Applicant stated therein that the partnership agreement authorizes limited partners to exercise voting rights on certain matters, including the right to elect or remove general partners, approval or termination of investment advisory contracts, approval or disapproval of the sale of all or substantially all of the assets of Applicant, ratification or rejection of the appointment of the independent public accountants of Applicant and amendments to the partnership agreement (other than those to admit or substitute limited partners or to return or reduce the amount of partners' capital contributions).

Applicant's Original Application also stated that Applicant had been advised that it was the opinion of its Nebraska counsel that the existence or exercise of the aforementioned voting rights does not subject the limited partners to liability as general partners under the Uniform Limited Partnership Act of Nebraska. However, Applicant further stated in the Original Application that it is possible that, because of such voting rights, the limited partners might be found to be subject to liability as general partners by the courts of another state. Consequently, as a result of utilizing the limited partnership form of operation, Applicant's Original Application was required to contain certain undertakings by Applicant designed to minimize the risk that the status of investors as limited partners under the Uniform Limited Partnership Act of Nebraska might not be recognized in other jurisdictions, resulting in their being subjected to liability for obligations of Applicant as general partners.

Accordingly, in its Original Application, Applicant undertook, inter alia: (1) that if a limited partner is sued to satisfy an obligation of Applicant, Applicant will, upon notice of such suit, either satisfy such obligation or, if it believes such suit is without merit, undertake the defense of such suit; (2) that Applicant will include in all of its material contracts a provision that any claim under the contract may be asserted only against Applicant's assets; and (3) that Applicant's general partners, as a condition to obtaining a ruling from the Internal Revenue Service on the tax status of Applicant, agreed to make and retain an investment in shares of Applicant in the aggregate of at least one percent of all outstanding shares of Applicant. IMSC agreed to purchase sufficient shares to maintain this one percent interest.

As a further protection against the risk that the limited partners might be held personally liable for Applicant's obligations as general partners, Applicant's Original Application also contained an undertaking by Applicant to obtain insurance protection against losses by reason of the errors and omissions of partners, officers or employees of Applicant in the amount of $5,000,000 (with a $10,000 deductible for any one claim) and a stockbrokers' blanket bond in the amount of $10,000,000. Applicant represents in its Amended Application that this undertaking was entered into in the expectation that insurers would write the required insurance coverage at nominal rates. Applicant states in its Amended Application that it has obtained and is carrying insurance coverage in the specified amounts. Applicant further states that despite extended negotiation, the cost of this coverage for one year is $26,933, approximately 0.67% of the net assets of Applicant at May 31, 1981. Applicant states that had premiums at these rates been payable for the full six month period ending on that date, they would have amounted to 39 percent of Applicant's total expenses, whereas for most funds such premiums are a minor part of total expenses.

Applicant states that Rule 17g–1 under the Act, which specifies minimum amounts of investment company fidelity bond coverage, would require a corporate fund of Applicant's present size of $4,000,000 to carry a fidelity bond of $125,000. Under Rule 17g–1 a corporate fund with $12,000,000 of assets, the aforementioned point at which Applicant has committed to covert to corporate form, would be required to carry a fidelity bond of $200,000. There is no statutory or other requirement of insurance coverage for errors and omissions.

Applicant represents in its Amended Application that its organization as a limited partnership does not so increase risks of the kind covered by a fidelity bond or by errors and omissions insurance so as to justify requiring insurance coverage more than ten times the customary coverage. In support of this argument, Applicant states that (1) its errors and omissions insurance carrier has indicated that the premium rates charged Applicant will be greater when it becomes a corporation than they are now when it is a partnership. Applicant states that it believes this is an indication of the insurers' belief that the risks are actually lower for partnerships; (2) Applicant is subject to all the regulatory requirements of the Act and the Rules thereunder specifically designed to provide

reasonable protection to investment company investors. Thus, Applicant's securities and cash balances are held by The Bank of New York as Custodian. The Bank of New York acts also as its Transfer and Paying Agent. Applicant is audited on a regular basis by independent public accountants, and its annual and other periodic reports are filed with and subject to review by the Commission; (3) Applicant's management structure differs from that of a corporate fund in minor detail but not in matters of substance. Applicant notes that its Limited Partnership Agreement provides that no single Director General Partner may bind Applicant except in a case where only one Director General Partner remains, in which case additional general partners are to be promptly elected. In addition, Applicant's Director General Partners, like directors of a corporation, must act by majority vote at a meeting or by unanimous written consent, and at least 40 percent of Applicant's Director General Partners must be, and at present 60 percent are, non-interested persons; and (4) under Applicant's Custodian Agreement and Transfer Agency Agreement the manner of giving instructions and the procedures for designating and identifying the persons authorized to give instructions are the same as in the case of a corporation with the Director General Partners functioning in the same manner as a board of directors.

In its Amended Application Applicant states, while it recognizes that, despite Nebraska law to the contrary, there is some possibility that the limited partners could be held subject to personal liability in a suit brought in a jurisidiction other than Nebraska, it considers such a possibility to be remote for the following reasons: (1) the risk of personal liability on the part of any partner is minimized by the requirement for inclusion in Applicant's material contracts of a provision that the other parties to such contracts will look only to partnership assets for payment of their claims; (2) so far as the limited partners are concerned, Applicant is obligated to defend and indemnify them against personal liability; (3) the likely target of any suit would be one or more of the general partners, who could not defend on the basis that their liability was limited by the Nebraska limited partnership statute and their non-participation in management; (4) the possibility of exhaustion of assets to the point where Applicant could not pay creditors is remote; and (5) the nature of Applicant's operations is such that the only significant liabilities likely to be incurred would be bank loans for leverage purposes, which pursuant to Section 18(f)(1) of the Act require 300% asset coverage, making an asset deficiency to discharge them unlikely. Applicant represents that, short of its insolvency, the risks of a limited partner investor are no different from those of an investor in a corporate fund, which are normal risks of any investor in an equity product and which fidelity bond coverage and errors and omissions insurance do not protect against.

Applicant states in its Amended Application that the Director General Partners have reviewed the matter of appropriate errors and omissions insurance and fidelity bond coverage, taking into account all relevant factors including the view of the staff of the Securities and Exchange Commission that generous insurance coverage is appropriate in view of the special problems of using the limited partnership form. Applicant states that the Director General Partners, including the two individuals who are not interested persons of Applicant, have concluded that errors and omissions insurance and fidelity bond coverage for Applicant will be adequate to cover risks reasonably to be anticipated if maintained, in each case, in the following amounts: $1,000,000 plus $200,000 for each $1,000,000 or part thereof by which the gross assets of Applicant as of the end of any calendar quarter exceed $5,000,000, with any required increases in coverage being effected promptly following the end of each calendar quarter. Applicant's Amended Application states that in the judgment of the Director General Partners insurance coverage in excess of this amount would involve unjustified expense detrimental to the interests of Applicant's shareholders.

Section 6(c) of the Act provides, in pertinent part, that the Commission may by order upon application conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions, from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that subject to granting of the amendment by the Commission of its order of August 6, 1980, requested herein, Applicant undertakes to obtain and maintain errors and omissions insurance and fidelity bond coverage in the amounts specified in the Original Application. However, Applicant estimates the cost of obtaining the reduced errors and omissions insurance and fidelity bond coverage which would be allowed under the requested amended order, assuming $1,000,000 of errors and omissions insurance and fidelity bond coverage, will be aproximately $7,000 annually. Applicant represents that the saving of $19,000 in expenses by reason of the reduced errors and omissions insurance and fidelity bond coverage far outweights any additional risk to the limited partners as a result of the reduced insurance coverage. Thus, Applicant maintains that the requested amended order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 10, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-21620 Filed 7-22-81; 8:45 am]

BILLING CODE 8010-01-M

[812-4732; Rel. No. 11863]

Madison Fund, Inc.; Filing of an Application

July 17, 1981.

Notice is hereby given that Madison Fund, Inc. ("the Applicant"), 885 Second Avenue, New York, N.Y. 10017, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on September 8, 1980, and amendments thereto on April 2, 1981, and June 22, 1981, for an order pursuant to Section 23(c)(3) of the Act to permit the Applicant to repurchase shares of its common stock from those shareholders who own less than 100 shares at a premium of $1.00 per share in excess of the market price (but in no event more than its net asset value per share). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant states that, as of March 31, 1981, it had 22,295,835 shares of its common stock outstanding which were held by 58,370 shareholders. Of this total, 801,712 shares representing 3.6% of the Applicant's total common stock outstanding were owned by approximately 26,077 shareholders who individually owned less than 100 shares. The Applicant proposes to offer to these shareholders who own less than 100 shares of its common stock, as of a fixed record date, the opportunity to tender such shares of common stock to the Applicant for cash ("Old-Lot Repurchase"). In addition to payment of the market price (i.e., the reported composite closing sales price) on the first business day following the last day on which shares may be tendered pursuant to the Odd-Lot Repurchase, the Applicant proposes to pay a premium of $1.00 per share, but in no event shall the per share price for such shares exceed the net asset value per share. In this regard, the Applicant states that although no prediction can be made about the relationship that the market value of its common stock will bear to the underlying net asset value, it should be noted that its common stock has traded at a discount from its net asset value since February 18, 1972. The Applicant anticipates that the Odd-Lot Repurchase will remain open for a period of 30–40 days.

The Applicant states that its current annual maintenance charge per shareholder account is $8.85 irrespective of the size of such account. Thus, the Applicant asserts that the proportionate expense of maintaining smaller accounts as against the investment in the Applicant they represent is greater than in the large accounts. According to the application, the maximum acceptance rate for the Odd-Lot Repurchase, as of March 31, 1981, would be about 3.6% of its total outstanding common stock, or 801,712 shares in 26,077 shareholder accounts. Assuming a market price of $21.625 per share (the reported closing price on March 3, 1981), the total cost of implementing the Odd-Lot Repurchase would be $18,138,734 and would be paid from general corporate funds. Assuming all 26,077 of its small shareholder accounts are eliminated through the Odd-Lot Repurchase, the Applicant anticipates yearly operating expense savings of approximately $230,781. According to the application, approximately 3½ years of such savings would be required to recoup the total premium paid by the Applicant in implementing the Odd-Lot Repurchase.

Section 23(c)(3) of the Act prohibits a closed-end investment company from purchasing its own securities except under such circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Rule 23c–1(a) under the Act recites the conditions under which a registered closed-end company may purchase for cash securities of which it is the issuer other than on a securities exchange or pursuant to tenders to all holders of securities of the class to be purchased. Rule 23c–1(c) further provides, in pertinent part, that in the event a registered closed-end company cannot meet the conditions of this rule it may file an application with the Commission for an order pursuant to Section 23(c)(3) of the Act to permit the purchase of any security of which it is the issuer.

The Applicant cannot rely on the exemption from the repurchase prohibition of Section 23(c)(3) provided by Rule 23c–1 thereunder because each repurchase of its common stock at a premium over market value would be contrary to the requirement of paragraph (a)(6) of the rule that such repurchases be made at a price not above the market value, if any, or the asset value of such security, whichever is lower, at the time of purchase. Nevertheless, for purposes of the requested order pursuant to Section 23(c)(3) of the Act, the Applicant undertakes to otherwise comply with all the remaining requirements of the rule which are applicable.

The Applicant further represents that the Odd-Lot Repurchase will not be made in a manner or on a basis which unfairly discriminates against any holders of its common stock, the class of securities proposed to be repurchased. In support thereof, the Applicant asserts that the Odd-Lot Repurchase is voluntary and that no shareholder will be required to tender his shares. The Applicant further asserts that any securities tendered pursuant to the Odd-Lot Repurchase may be withdrawn at any time until expiration of ten business days from the commencement thereof. The Applicant states that those eligible shareholders who choose to tender their shares of common stock will have the opportunity to sell their small amount of odd-lot shares to the Applicant at a $1.00 premium per share, and without incurring brokerage charges or taxes. With respect to those remaining shareholders who choose not to participate in the Odd-Lot Repurchase, as well as those who are not being offered an opportunity to tender their shares for repurchase, the Applicant further asserts that implementation of the Odd-Lot Repurchase will save it the cost of maintaining a number of small accounts which will reduce the Applicant's expenses for the benefit of its remaining shareholders. Also, to the extent that shares of Applicant's common stock will be repurchased at a sales price which is less than net asset value, the net asset value attributable to the shares held by its remaining shareholders will increase.

The Applicant finally represents that participation in this Odd-Lot Repurchase is being limited to the record holders of less than 100 shares of its common stock because the number of tenders from its beneficial holders in past "odd-lot" tender offers was a very small fraction of those tenders from such record holders. The Applicant contends that the relatively short period (30–40 days) that the offer will remain open will make it difficult for brokers and others to communicate with their beneficial holders and to receive and forward instructions. In addition, the Applicant asserts that certain of the charges involved in maintaining a shareholder account, especially separate postage and transfer agent fees, are not present in the case of beneficial holders lumped together in one nominee account and, hence, a greatly reduced savings to the Applicant would not result from closing these shareholder accounts. As a result, the Applicant does not view the proposed $1.00 premium to be cost-

effective for those odd-lot beneficial shareholder accounts.

Notice is further given that any interested person may, not later than August 11, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

As provided in Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing on request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 81-21621 Filed 7-22-81; 8:45 am]

BILLING CODE 8010-01-M

Release No. 22134/ July 20, 1981

[70-6051; Rel. No. 22134]

Middle South Utilities, Inc. and Middle South Energy, Inc.; Proposal by Subsidiary to Issue and Sell Common Stock To Parent Holding Company

July 20, 1981.

Middle South Utilities, Inc. ("MSU"), a registered holding company, and Middle South Energy, Inc. ("MSE"), 225 Baronne Street, New Orleans, Louisiana, a wholly-owned subsidiary of MSU, have filed a post-effective amendment to an application-declaration previously filed with the Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 43 promulgated thereunder.

By an order dated October 21, 1980, in this matter, MSE was authorized to issue and sell to MSU up to 50,000 additional shares ("1981 Common Stock") of MSE's no par common stock from time to time through December 31, 1981, at a price of $1,000 per share. As of June 5, 1981, MSE had sold 13,300 shares of such stock to MSU. It now appears that in addition to the 36,700 unsold shares of 1981 Common Stock it may be necessary for MSE to sell to MSU up to an additional 50,000 shares of common stock through December 31, 1982 ("Additional Shares"). The proceeds of such sales will be used by MSE to finance, in part, construction of the Grand Gulf generating facility near Natchez, Mississippi. Sales of the Additional Shares will be timed to coincide with MSE's cash needs for construction of the Grand Gulf plant.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 13, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-21622 Filed 7-22-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0303]

Cohasset Capital Corp.; License Surrender

Notice is hereby given that Cohasset Capital Corporation (CCC), 4 Tupelo Road, Cohasset, Massachusetts 02025, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). CCC was licensed by the Small Business Administration on February 29, 1980.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on July 7, 1981, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 16, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-21583 Filed 7-22-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Co. Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004(1981)) for approval of two conflict of interest transactions.

Grocers proposes to loan $16,000 to Royalty Grocery, Inc., 6600 E. Florence Avenue, Bill Gardens, CA 90201 and $75,000 to Sunnycrest Market Inc., 1835 Sunnycrest Drive, Fullerton, California 92632. The proceeds of the loan will be used to purchase equipment from Grocers Equipment Company (G.E.C.). an associate of the licensee.

All of Grocers stock is owned by subsidiaries of Certified Grocers of California, Ltd. (certified), a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of the SBA Rules and Regulations. As a result, Grocers financing to Royalty and Sunnycrest falls within the purview of Sections 107.3 and 107.1004(b)(5) of the SBA Regulations. Grocers loan to Royalty and Sunnycrest requires prior written approval of SBA.

Notice is hereby given that any person may not later than August 7, 1981, submit written comments to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in

both the Bill Gardens and Fullerton, California areas.

(Catalog of Federal Domestic Assistance Programs No. 95.001, Small Business Investment Companies)

Dated: July 15, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-21554 Filed 7-22-81; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-5294]

United Financial Enterprises; Notice of Application for License To Operate as a Small Business Investment Company.

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by United Financial Enterprises (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1981).

The officers, directors and stockholders of the Applicant are as follows:

Samuel C. H. Ching, 15 Presidio Terrace, San Francisco, CA 94118, Chairman of the Board, 20 percent Stockholder

Saul Wilder, 920 Crestview Drive, San Carlos, CA 94070, Vice President, Director, 20 percent Stockholder

Gerald J. Chan, 1422 Sacramento Street, San Francisco, CA 94109, Secretary, Director, 20 percent Stockholder

Russell J. Lau, 2920 Octavia Street, San Francisco, CA 94123, Treasurer, Director, General Manager, 20 percent Stockholder

Joanne M. Kutsunai, 1425 Ward Avenue, Honolulu, HI 96822, Director, 20 percent Stockholder

The Applicant, a California corporation, with its principal place of business at 159 O'Farrell Street, San Francisco, California 94102, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 50,750 shares of common stock.

The Applicant will conduct its activities principally in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than August 7, 1981, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 15, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-21555 Filed 7-22-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5230]

Minority Enterprise Funding, Inc.; Filing of Application for Transfer of Control

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1981)) for transfer of control of Minority Enterprise Funding, Inc. (MEF) a small business investment company licensed by the Small Business Administration on March 9, 1979, and operating under the provisions of Section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of control of MEF is subject to the prior written approval of SBA.

Assuming consummation of the proposed transfer of ownership and control, the management and stockholder of MEF will be:

Name Officers, Directors, and Percent of Ownership

Frederick C. Chang, 2020 NASA Road 1, Houston, Texas 77058, President, Director, 100

John J. Lin, 806 Kenforest Drive, Missouri City Texas 77489, Vice President, Director

James Y. Lin, 15214 Corona Del Mar, Houston, Texas 77083, Secretary/Treasurer, Director

Upon consummation of the transfer of control it is the intention of the new management to move the Licensee's principal office to Suite D, Building A, 2020 Nasa Road 1, Houston, Texas 77058.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new shareholders and management, and the probability of successful operations of the company under such management (including profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any person may, not later than August 7, 1981, submit written comments on the proposed transfer of ownership and control to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Company)

Dated: July 16, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

DEPARTMENT OF STATE

[Public Notice CM-8/424]

Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet at 9:00 a.m., August 6, 1981 in Room 3012, Department of Commerce Building, 325 South Broadway, Boulder, Colorado 80303. This Study Group deals with matters in telecommunications

relating to the development of international digital data transmission.

The agenda for the August 6 meeting will include the results of the June Paris meeting of Study Group XVII rapporteurs on 2400 bits per second duplex modem recommendation and consideration of possible editorial changes to be suggested for CCITT recommendations V.22 and Z.54.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Richard H. Howarth, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202)632–1007 or T. de Haas, Chairman of U.S. Study Group D, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone (303)499–1000, Ext. 3728.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-21538 Filed 7-22-81; 8:45 am]

BILLING CODE 4710-01-M

[Public Notice CM-8/423]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 6, 1981 at 9:30 a.m. in Room A–110, of the Federal Communications Commission, 1225 20th Street, NW., Washington, D.C. This Study Group will deal with U.S. Government aspects of international telegram and telephone operations and tariffs.

The U.S. Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT meetings. This meeting of Study Group A will examine the questions and contributions relating particularly to the upcoming September meetings of CCITT Study Group III, during the 9:30 a.m.–12:30 p.m. morning session and issues concerning CCITT Study Group I (scheduled for January, 1982) in the afternoon session 1:30 p.m.–4:30 p.m. There will be an ad hoc meeting of the Public Data Network Group on August 5, 1981 at 1:00 p.m. in Room A–106, of the Federal Communications Commission, 1225 20th Street, NW., Washington, D.C.

Members of the general public may attend the meetings and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to seating available.

Requests for further information should be directed to Earl S. Barbely, Federal Communications Commission, Washington, D.C., telephone (202) 632–3214.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-21537 Filed 7-22-81; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/425]

Study Group D of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT): Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 7, 1981 at 9:00 a.m. at the Main Building of the U.S. Department of Commerce, 325 South Broadway, Boulder, Colorado. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission.

The agenda for the August 7 meeting will include consideration of the following:

1. Consideration of the contributions for the CCITT Study Group XVII meeting, November 23–27, 1981.

2. Report on the CCITT Study Group VII meeting held in Kyoto, April 23–May 1, 1981.

3. Consideration of status of preparatory work for the Study Group VII Working Parties meetings to be held late 1981 and early 1982.

4. Other business.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Richard H. Howarth, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–1007 or T. de Haas, Chairman of U.S. Study Group D, Institute for Telecommunications and Information Administration, Boulder, Colorado 80303, telephone (303) 499–1000, Ext. 3728.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-21539 Filed 7-22-81; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/426]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on August 13, 1981 at the U.S. Naval Observatory, Building 1, Conference Room, 34th and Massachusetts Avenue, N.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting will be a review of foreign documents in preparation for the international meeting of Study Group 7 in September.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Dated: July 7, 1981.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 81-21540 Filed 7-22-81; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-81-20]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal

Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before August 12, 1981.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of section 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 17, 1981.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Doc. No.	Petitioner	Regulations affected	Description of relief sought
20419	Cascade Airways, Inc	14 CFR 21.197	Extension of Exemption No. 3050 which permits petitioner to apply for and permit the use of a special flight permit with a continuing authorization to fly an aircraft, that may not meet applicable airworthiness requirements but is capable of safe flight, to a base where repairs or maintenance are to be performed.
17324	Gulf Air Company	14 CFR Parts 21, 61, 63, and 121	To permit petitioner to continue to operate certain U.S.-registered L-1011 airplanes using a master minimun equipment list and a continuous airworthiness maintenance program as provided by the previous issuances of Exemption No. 2468.
21687	Mr. Terry L. Spath	14 CFR 65.91(c)(1)	To permit petitioner to become eligible for an Inspection Authorization without meeting the specific experience requirements of the FAR.
21624	Pan American World Airways	14 CFR 121.316(b)(2)	To permit petitioner to operate its B-727-100 and L-1011-385 airplanes after December 1, 1981 and until March 6, 1982 and April 1, 1983, respectively, without having the required public address system microphone installed for each flight attendant seated near a floor-level exit.
21644	Airborne Express, Inc	14 CFR 121.623(a)	To permit petitioner relief from the requirement to list at least one alternate airport for each destination airport in the flight release for its all-cargo aircraft operation.
19165	Executive Jet Aviation, Inc	14 CFR 135.89(b)(3)	To permit petitioner to operate its Learjet aircraft up to and including FL 410 without requiring at least one pilot to wear and use an oxygen mask at all taimes above FL 350.
21801	Valley-Todeco	14 CFR 21.303(3)	To allow petitioner temporary relief from the Parts Manufacturer Approval requirements for certain replacement and modification parts they manufacture and sell for installation on type certificated aircraft or engines.
21730	Clay Lacy Aviation	14 CFR 135.89(b)(3)	To allow petitioner to operate its Learjet Models 24, 25, and 35A aircraft above FL 350 up to and including FL 410 without one pilot having to wear and use an oxygen mask.
21819	Air Nevada	14 CFR 135.113	To permit passenger seating in the copilot seat of petitioner's Cessna 404 aircraft during day and night visual flight rule (VFR) conditions.
21818	Military Aircraft Command	14 CFR 91.119(a)(2) and 91.121(b)(1)	To permit petitioner to use Adverse Weather Aerial Delivery System (AWADS) and Station Keeping Equipment/Inertial Navigation System/Zone Marker (SKE/INS/ZM) systems under all weather conditions.
21810	Alaska Int'l Air	14 CFR 65.53(a)	To permit petitioner to be eligible for an aircraft dispatcher certificate prior to his attaining 23 years of age.

Dispositions of Petitions for Exemption

Doc. No.	Petitioner	Regulations affected	Description of relief sought—Disposition
21300	Elan Air Corp	14 CFR 121.291(a)(b)	To permit petitioner to initially introduce a DC-8-55 CF airplane into passenger-carrying operations in 189-passenger-seating configuration without first conducting a full-scale aborted takeoff and ditching demonstration of emergency evacuation procedures. *Granted 7/13/81.*
21574	Ransome Airlines (RAA)	14 CFR 135.261(b)	To permit RAA to assign a flight crewmember and for flight crewmembers to accept flight duty time without having had at least 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the flight assignment. *Denied 7/10/81.*
21842	Golden Gate Airlines	14 CFR 121.538	To permit petitioner to operate without maintaining a full security program. *Granted 7/10/81.*
21255	Midway Airlines	14 CFR 91.307	To allow operation in the United States under a service of small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—9-DC-9-10. *Granted 6/29/81.*
21814	Wein Air Alaska, Inc	14 CFR 91.307	To allow operation in the United States under a service of small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988—3-B-737-210C. *Granted 6/29/81.*
21573	Key Airlines, Inc	14 CFR 121.61(d)(2)	To allow petitioner to employ Mr. Joseph Donald Malogrino as Chief Inspector without meeting the 1 year of experience requirement as a maintenance inspector. *Granted 7/14/81.*

Dispositions of Petitions for Exemption—Continued

Doc. No.	Petitioner	Regulations affected	Description of relief sought—Disposition
21590	Daniel J. Livingston	14 CFR 61.151(a)	To permit petitioner to obtain an airline transport pilot certificate before reaching his 23rd birthday. *Denied 7/15/81.*

[FR Doc. 81-21524 Filed 7-22-81; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration Environmental Impact Statement: Detroit, Michigan (Wayne County)

AGENCY: Federal Highway Administration (FHWA), MDOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed Travel Information Center development at I-75 near the Ambassador Bridge in Detroit, Michigan (Wayne County).

FOR FURTHER INFORMATION CONTACT: Thomas Fort, District Engineer, Federal Highway Administration, Michigan Division, P.O. Box 10147, 315 W. Allegan, Lansing, Michigan 48901, Telephone: (517) 377-1879, (FTS 374-1879), or Jack Morgan, Manager, Public Involvement Section, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909, Telephone 1-800-292-9576 (toll free), (517) 373-2166.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to develop a Travel Information Center in the vicinity of I-75 and the Ambassador Bridge in Detroit, Michigan. This project was requested in a resolution passed by the Detroit Common Council on February 26, 1974. Also included in this proposal are associated roadway improvements.

Alternatives under consideration include (1) taking no action; (2) three (3) separate sites for the Travel Information Center; and (3) three (3) separate roadway configurations to provide access to the selected site. Incorporated into and studied with the various build alternatives will be design variations within the sites.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who had previously expressed interest in this proposal.

Early coordination with a number of Federal, State and local agencies as well as input received from a series of public information meetings conducted in 1977 have identified the more significant issues to be addressed in the draft EIS. Accordingly, a preliminary scoping document is being prepared by FHWA and MDOT identifying those issues and will be available on request to all interested agencies, organizations, and individuals. No formal scoping meeting is planned at this time. Comments and suggestions on the scoping document and the issues identified are invited from all interested parties and should be submitted to the FHWA or MDOT. Please furnish any comments to the above contact persons. Separate copies of the scoping document are being furnished to field offices of the following Federal agencies who have been involved in the early coordination activities or who may be designated a cooperating agency: U.S. Department of the Interior; General Services Administration; U.S. Immigration and Naturalization Service; and Environmental Protection Agency.

A series of public meetings will be held in Detroit in late 1981. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comments.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, or MDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular Number A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on June 15, 1981.

David A. Merchant,

Division Administrator, Lansing, Michigan

[FR Doc. 81-21527 Filed 7-22-81; 8:45 am]
BILLING CODE 4910-22-M

Environmental Impact Statement: Memphis, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Memphis, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway, Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-5394.

SUPPLEMENTAL INFORMATION: The FHWA in cooperation with the City of Memphis and the Tennessee Department of Transportation intends to prepare an EIS on a proposal to construct transportation improvements in the Midtown area of the city. The corridor for the proposed project covers approximately 7.5 square miles extending from the I-40/I-240 interchange on the west to former I-40 at Holmes Street on the east. The purpose of the proposed action is to connect the ends of the completed segments of former I-40 to the existing street system in the general vicinity of Overton Park, thus improving accessibility to and through the Midtown area, eliminating existing circuitous traffic routings in the corridor, and providing for existing and projected future traffic volumes in the area.

Alternative improvements are being considered separately for the portions of the corridor east and west of Overton Park. Numerous "build" alternatives are being considered, ranging from the construction of new streets at grade with no control of access to the construction of new elevated roadways with full control of access and interchanges at major cross streets. All alternatives in the western portion of the corridor include ramp improvements at the I-40/I-240 interchange. A "Minimum Modification" alternative is also being considered. Under this alternative only ramp improvements at the I-40/I-240 interchange and other

committed improvements scheduled by the city would be implemented. None of the alternatives being considered will encroach on Overton Park.

A public meeting to discuss the proposed project was held on February 17, 1981, and a second public meeting will be held before completion of the draft EIS. Also, various Federal, State, local, and private agencies and organizations have been requested to comment on the proposed action. These activities are providing input regarding the scope of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or suggestions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: July 15, 1981.

Edward G. Oakley,

Division Administrator, Tennessee Division, Nashville, Tennessee.

[FR Doc. 81-21528 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Jefferson County, Ohio, Cities of Wintersville and Steubenville

AGENCY: Federal Highway Administration.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Jefferson County, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McBee, Division Administrator, or Mr. Lawrence J. Kastner, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215, Telephone: (614) 469-6896 or 469-6874.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT), has been preparing a draft EIS for several years on the proposed construction of approximately nine miles of limited access divided highway in the Cities of Wintersville and Steubenville and in Jefferson County, Ohio a relocation of U.S. Route 22. Two connectors with the existing route will also be provided along with three interchanges with other presently existing routes. The western terminus of the proposed facility is a completed section of a rural freeway; the eastern terminus will be a six-lane bridge over the Ohio River, currently under construction, connecting Steubenville with Weirton, West Virginia. The contruction of the proposed section of highway would complete an improved U.S. Route 22 linking Pittsburgh, Pennsylvania and Cadiz, Ohio. It would eliminate congestion and delay on the existing route in the Steubenville urban area and provide better east-west access for the surrounding region.

The project has been under consideration for many years and several alignments have been studies. Various alignments were eliminated because of community opposition, potential urban impacts, or preemption by new residential and commercial development. The two alignments now under study pass to the north of the Wintersville-Steubenville area, one traversing a creek valley, the other the fringe of the developed area. For connection with the bridge, either a line through Steubenville urban area or an overlap on a widened State Route 7 along the Ohio River is possible, with the latter plan having local support. The preferred alternative is a combination of the line traversing the valley and the connection following State Route 7. The no build alternative has also been studied, but the inadequacies of the existing facility cannot be corrected on the present location.

There are currently no plans to hold a formal scoping meeting. However, there has been extensive coordination with federal, state, and local agencies and the public. It is envisioned that such involvement will continue throughout further development of the project.

To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205 Highway Research, Planning & Construction. The provisions of OMB Circular No. A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: July 15, 1981.

John W. McBee,

Division Administrator, Columbus, Ohio.

[FR Doc. 81-21432 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Minneapolis, Minnesota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed roadway project in Minneapolis, Minnesota.

FOR FURTHER INFORMATION CONTACT: Stephen Bahler, Area Engineer, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, Telephone: (612) 725-5956. C. E. Weichselbaum, District State Aid Engineer, District 5, Minnesota Department of Transportation, 2055 North Lilac Drive, Golden Valley, Minnesota 55422, Telephone: (612) 545-3761. Robert Mattson, Minneapolis Park and Recreation Board (MPRB), 310 Fourth Avenue South, Minneapolis, Minnesota 55415, Telephone: (612) 348-2222.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation and the Minneapolis Park and Recreation Board, will prepare an environmental impact statement (EIS) on a proposal to extend West River Parkway and develop associated recreational areas along the downtown riverfront in Minneapolis, Minnesota. The project is part of the Federal Great River Road program, and is identified by the following project numbers: S.P. 141-080-02, GR 5242(1); S.P. 141-080-04, GR 5220(5); and S.P. 141-080-05, GR 5242(3).

The proposed roadway would extend from an existing section of West River Parkway at Franklin Avenue to an existing section of West River Road at Plymouth Avenue, a distance of approximately 3.5 miles. The proposed roadway would provide for two 12-foot moving lanes of traffic, with adjacent boulevards, lighting, landscaping, bicycle and pedestrian paths, and parking. The proposed project would also include recreational sites for viewing of the Mississippi River, park activities, and interpretation of the river environment.

The objectives of the project include: (1) creating an open space corridor and circulation routes along the Minneapolis riverfront, (2) developing a Great River

Road link to provide access to the riverfront and scenic views of the Mississippi River, (3) increasing awareness of the riverfront for recreational use and economic development, and (4) preserving physical and cultural river resources and compatible river-oriented institutions.

Alternatives under consideration include: (1) taking no action or (2) up to three alternative roadway locations, each with an associated configuration of open space facilities. The alternatives will be studied in more detail to determine roadway alignment and grade, recreational facility location and design, and the extent of property acquisition.

A Project Development Report was prepared for the proposed project in accordance with the State of Minnesota Action Plan Guidelines.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in the proposal. Public meetings regarding the project have been held throughout the first half of 1981. A scoping meeting to identify issues and receive comments on the project alternatives will be held on July 28, 1981 at 7:30 p.m. The location of the meeting will be Summit Bank Building, Fourth Floor, 310 Fourth Avenue South, Minneapolis, Minnesota. A public hearing on the location of the proposed project will be held in early 1982. Public notice will also be given of the time and place of the scoping meeting and location public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, Mn/DOT, or the Minneapolis Park and Recreation Board at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, (Highway Research, Planning and Construction). The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: July 10, 1981.

James E. St. John,

District Engineer, St. Paul, Minnesota.

[FR Doc. 81-21169 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-22-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 7:30 a.m., August 7, 1981, at the Flanders Inn, Massena, New York. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Report of Joint Tolls Review Board; Old and New Business; Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than August 4, 1981 and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C., on July 7, 1981.

D. W. Oberlin,

Administrator.

[FR Doc. 80-21726 Filed: 7-22-81; 8:45 am]

BILLING CODE 4910-61-M

Urban Mass Transportation Administration

[Docket No. 81-C]

Deletion of Price Offsets and Weight Incentive Provision From Advanced Design Bus (ADB) Specification

AGENCY: Urban Mass Transportation Administration.

ACTION: Notice and request for comments.

SUMMARY: Public agencies who receive grant funds from the Urban Transportation Administration to purchase Advanced Design Buses (ADB) are currently required to evaluate bids using mathematical bid adjustments called "price offsets." This Notice deletes the current Federal requirement of evaluating bids using price offsets and is designed to increase local flexibility. It also deletes the weight incentive provision contained in the Advanced Design Bus Specification. While public agencies will be able to use alternative methods of evaluating bids for these buses, with UMTA approval, they must continue to certify that they have considered performance, standardization and life-cycle costs in awarding contracts for ADB's. UMTA is asking for comments concerning the deletion of the price offsets in order to assist in developing further technical guidance.

DATES: 1. This notice takes effect on July 24, 1981, and applies to any procurement for which bids are opened on or after that date. In the case of bids pending but unopened on July 24, 1981, the procurements must be amended to delete the price offsets and weight incentive provision. In the case of bid openings prior to July 24, 1981, any award made pursuant to that solicitation must be based on the price offsets and weight incentive provision. 2. Comments on the need for further technical guidance for price offsets must be received by August 23, 1981.

ADDRESS: Comments must be submitted to UMTA Docket No. 81-C, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 5 p.m. local time Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Wilbur Hare, Urban Mass Transportation Administration, Room 9306, 400 Seventh Street, SW., Washington, D.C. 20590, 202/426-1428.

SUPPLEMENTARY INFORMATION: On March 14, 1977, UMTA published Notice in the **Federal Register** that public agencies who receive UMTA grant funds ("recipients") to purchase advanced design buses would be required to follow the Advanced Design Bus procurement procedures, commonly called the "White Book "specification, which included price offsets and a weight incentive provision. (42 FR 13816) A price offset is a mathematical adjustment used to evaluate a bid price, which places a value on particular bus features believed to be desirable. The values assigned to price offset represent the approximate values of these features to the transit operating properties and do not relate to production costs. During the bid evaluation process, the offsets awarded each manufacturer are deducted from its unit bid price to arrive at the evaluated bid price which determines the winner of the

competition. The weight incentive provision works to increase or decrease the actual contract price, depending upon whether the buses as delivered come in above or below a specified weight. In a **Federal Register** Notice published on May 15, 1980, in response to a statutory provision in UMTA's Appropriations Act for Fiscal Year 1980, UMTA stated that the ADB procurement procedure with price offsets is a more advanced method of addressing standardization, performance and life-cycle costs than that used for most other rolling stock, and that such procedure would continue to be the only acceptable method for procuring ADB's until modified by UMTA. (45 FR 3224)

UMTA is deleting the price offsets and the weight incentive provision for several reasons. This deletion is consistent with the President's policy of reducing unnecessary Federal intrusion into State and local decision making. While the price offsets, at the time they were created, were considered to provide a more sophisticated method for addressing standardization, performance and life-cycle cost factors, UMTA believes that there should be more State and local flexibility in determining how these factors are to be considered. The price offsets were intended to value product features that were considered desirable. However, experience with the price offsets has shown that they are outdated in many respects, since most of these product features have been incorporated into designs. It is therefore more appropriate to permit recipients to begin utilizing other or more advanced procurement techniques rather than continue to impose the existing mandatory price offsets which may or may not adequately address standardization, performance and life-cycle cost factors from the perspective of individual recipients. This action is not intended and should not be interpreted to mean that UMTA is less concerned about these factors. On the contrary, it is UMTA's intention to continue to provide technical assistance to recipients in improving their procurement techniques. The results of life-cycle cost studies will be made available to recipients. Recipients are encouraged to improve techniques for their consideration of standardization, performance and life-cycle cost factors, and are encouraged to add techniques as appropriate, subject to UMTA concurrence in the specific techniques. In addition, grant recipients purchasing ADB's after the effective date of this Notice must continue to certify to UMTA after the procurement award that they have considered performance, standardization and life-cycle costs in awarding their contracts, in accordance with the guidance set forth in 45 FR 32224, May 15, 1980. The deletion of the price offsets and weight incentive provision is being published in order to give notice to all interested and affected parties as well as to provide the opportunity to comment. The Administrator has determined that the deletion of price offsets is effective immediately but has determined that it is in the public interest to allow comments in order to assist UMTA in developing further technical guidance.

Dated: July 17, 1981.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 81-21600 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in Room 6400 at the Wadsdworth Veterans Administration Medical Center, Wilshire and Sawtelle Boulevards, Los Angles, California, on August 14, 1981. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research Education and Clinical Centers established by the Department of Medicine and Surgery of the Veterans Administration.

The session will convene at 1: p.m. and will be open to the public up to the seating capacity of the room. Because seating capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Pryor, Executive Secretary, Geriatrics and Gerontology Advisory Committee, Veterans Administration Central Office (phone 202-389-2298) prior to August 4, 1981.

Dated: July 16, 1981.

Robert P. Nimmo,

Administrator.

[FR Doc. 81-21577 Filed 7-22-81; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Rehabilitative Engineering Research and Development; Meeting

In accordance with Pub. L. 92-463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitative Engineering Research and Development. This meeting will convene at the Stouffers National Center Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202, August 5-6, 1981, beginning at 9 a.m. on Wednesday and 9 a.m. on Thursday. The purpose of the meeting is to review rehabilitative engineering research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitative Engineering Research and Development (RER&D) Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the August 5th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications relating to the delivery and organization of rehabilitative engineering. This review involves oral review and discussion of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with Section 552b, Subsections (c)(4), (c)(6), and (c)(9)(B), Title 5, United States Code and the

determination of the Administrators of Veterans Affairs under Section 10(d) of Pub. L. 92–463 as amended by Section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Mr. Robert Fleming, Administrative Officer, Rehabilitative Engineering Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, D.C. 20420 (Phone: (202) 389–5414) at least 5 days before the meeting.

Dated: July 16, 1981.

Robert P. Nimmo,

Administrator.

[FR Doc. 81–21576 Filed 7–22–81; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 141
Thursday, July 23, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 20, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of United Mizrahi Bank, Ltd., Tel Aviv, Israel, a foreign bank, for Federal deposit insurance of deposits received at and recorded for the account of its proposed United States branch to be located at 727 West Seventh Street, Los Angeles, California.

Notice of acquisition of control: Name and location of bank and name of acquiring party authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,147–NR—United States National Bank, San Diego, California.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 20, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1121–81 Filed 7–21–81; 1:05 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)) notice is hereby given that at its open meeting held at 2 p.m. on Monday, July 20, 1981, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director Charles E. Lord (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A recommendation regarding the purchase of two leases of space in the Corporation's building located at 1776 F Street, N.W., Washington, D.C.

A recommendation regarding an agreement to reserve the option to purchase certain space in San Francisco, California.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: July 20, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1122–81 Filed 7–21–81; 1:05 pm]

BILLLING CODE 6714–01–M

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, July 28, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * *

DATE AND TIME: Tuesday, July 30, 1981 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Pending legislation.
Appropriations and budget:
Budget reallocation FY 1981;
Budget Execution Report;
Budget update FY 1983.
Classification action.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, public information officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1124–81 Filed 7–21–81; 3:24 pm]

BILLING CODE 6715–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 37433 July 20, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 22, 1981, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CP–9—CP80–135, *et al.*, Northern Natural Gas Company.

CP–10—CP75–104, High Island Offshore System; CP76–118, U–T Offshore System.
M–2—RM81–38, Construction Work in Progress for Public Utilities.

Kenneth F. Plumb,

Secretary.

[S–1119–81 Filed: 7–21–81; 10:37 am]

BILLING CODE 6450–85–M

5

FEDERAL RESERVE SYSTEM: Board of Governors.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR, 36286, Tuesday, July 14, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, July 20, 1981.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposals for changes in internal system procedures for report clearance and information management.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: July 20, 1981.

James McAfee,

Assistant Secretary of the Board.

[S–1120–81 Filed 7–21–81; 10:56 am]

BILLING CODE 6210–01–M

6

NUCLEAR REGULATORY COMMISSION.

DATE: Thursday, July 23 (Revised) and Week of July 27, 1981.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Thursday, July 23

10 a.m. Budget Session (Markup) (Closed—Ex. 2, 6, 9)

Monday, July 27

2 p.m. Budget Session (Markup) (Closed—Ex. 2, 6, 9) (Tent.)

Tuesday, July 28

10 a.m. Budget Session (Markup) (Closed—Ex. 2, 6, 9) (Tent.)

ADDITIONAL INFORMATION: By a vote of 3–0, Commissioner Ahearne not present, on July 16, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that Discussion of Draft Letter to Senator Hatfield, Chairman, Subcommittee on Energy and Water Development, held that day, be held on less than one week's notice to the public.

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202) 634–1410.

July 20, 1981.

Walter Magee,

Office of the Secretary.

[S–1125–81 Filed 7–21–81; 3:50 pm]

BILLING CODE 7590–01–M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 27, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meeting will be held on Tuesday, July 28, 1981, at 11:00 a.m. An open meeting will be held on Thursday, July 30, 1981, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 28, 1981, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceedings of a enforcement nature.
Settlement of injunctive action.
Regulatory matter bearing enforcement implications.
Administrative proceeding of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Freedom of Information and Privacy Act appeals.
Regulatory matters regarding financial institution.
Opinion.

The subject matter of the open meeting scheduled for Thursday, July 30, 1981, at 10:00 a.m., will be:

1. Consideration of whether to grant the appeal of Donald B. Lewis for access to internal staff documents and Commission Minutes pertaining to the Commission's determinations regarding the initiation, prosecution and/or termination of the Commission's enforcement effort against the Firestone Tire & Rubber Co. For further information, please contact Theodore S. Bloch at (202) 272–2454.
2. Consideration of whether to affirm action, taken by the Duty Officer, granting access to non-public documents to John M. Fedders, Esquire, in connection with his assuming the position of Director of the Division of Enforcement. For further information, please contact Myrna Siegel at (202) 272–2430.
3. Consideration of whether to issue a proposed release which would amend the Commission's rules governing the delegation of authority to Regional Administrators to grant requests for changes of dates for annual audited reports filed by brokers and dealers. For further information, please contact Robert A. Love at (202) 272–2781.
4. Consideration of whether to approve the proposal of Colonial Gas Energy System, an exempt holding company subject to the financing sections of the Public Utility Holding Company Act pursuant to a stipulation, to merge with its two operating gas subsidiaries, Lowell Gas Company ("Lowell") and Cape Cod Gas Company ("Cape Cod"). The proposed transactions would combine Lowell and Cape Cod into one operating utility company and eliminate the holding company. For further information, please contact Mary Ann Oliver at (202) 523–5685.
5. Consideration of whether to issue a series of eight releases which propose (or repropose) for comment the following rulemaking actions designed to implement the integrated disclosure system (the name and phone number of the persons to contact for further information on each release is in brackets following the description of the release):
   (1) reproposal of Forms S–1, S–2, and S–3 (originally denominated Forms A, B, and C) to establish a three tier system for the registration of securities under the Securities Act of 1933 (the "Securities Act") [William H. Carter at (202) 272–2604];
   (2) reproposal of revised and expanded Regulation S–K in its entirety and reproposal of rescission of the Guides for the Preparation and Filing of Registration Statements and Reports (the "Guides"), other than the Guides relating to specific industries [Linda C. Quinn at (202) 272–2589];
   (3) proposal of amendments to conduct a "sunset" review of and generally revise the procedural requirements of Regulation C [17 CFR 230.400 through 230.494] under the Securites Act and Regulation 12B under the Securities Exchange Act of 1934 (the "Exchange Act") [W. Scott Cooper at (202) 272–2589];

(4) reproposal of new Rule 462A under the Securities Act governing the registration of securities to be sold in delayed or continuous offerings [Beverly K. Rubman at (202) 272-2604];
(5) proposal of a new Rule 176 under the Securities Act relating to the responsibility of persons subject to Section 11 of the Securities Act in an integrated disclosure system [Gregory H. Mathews at (202) 272-2589];
(6) proposal of new Rule 436(g) under the Securities Act and publication of a release concerning the Commission's policy with respect to the disclosure of security ratings [Beverly K. Rubman at (202) 272-2604];
(7) proposal of amendments to certain existing Securities Act registration forms to coordinate those forms with revised Regulation S-K and other aspects of the integrated disclosure system and proposed rescission of certain other Securities Act registration forms [William H. Carter at (202) 272-2604]; and
(8) proposal of amendments to Exchange Act rules, forms and schedules to coordinate with revised Regulation S-K and other aspects of the integrated disclosure system; reproposal without change of amendments to Schedule 14A relating to business and other relationships between a director and an issuer and the vote required for the election of directors; and proposal of amendments to Rule 175 under the Securities Act and the corresponding safe habor rules relating to projections under the other federal securities laws to broaden and clarify the scope of protection provided thereunder [Susan Davis at (202) 272-2390].

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: Bruce Mendelsohn at (202) 272-2091.

July 20, 1981.

[S-1123-8 Filed 7-21-81; 1:37 pm]
BILLING CODE 8010-01-M

federal register

Thursday
July 23, 1981

Part II

Department of Transportation

Federal Aviation Administration

Carry-On Baggage; Flexible Travel Canes

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 17320; Amdt. No. 121-174]

Carry-On Baggage—Flexible Travel Canes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides special rules for the storage of flexible travel canes used by blind passengers. Under current regulations, these canes must be placed in storage bins which are not readily accessible to blind passengers. This amendment provides methods by which flexible travel canes may be stored safely within reach of blind passengers.

The amendment further provides that the certificate holder must make available to the public any procedure it establishes relating to the air carriage of persons who may need evacuation assistance. The amendment is necessary since some passengers have experienced difficulty in determining what procedures apply to their use of air transportation. This amendment provides that certificate holders must make such procedures available to the public at airports which the certificate holder serves.

EFFECTIVE DATE: November 20, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 80-18, published in the **Federal Register** on November 13, 1980 (45 FR 75138). Notice 80-18 proposed amending Section 121.586 of the Federal Aviation Regulations (FAR) which relates to the transportation of passengers who may need evacuation assistance, and Section 121.589 which relates to the storage of carry-on baggage. All interested persons have been given an opportunity to participate in the making of the rule and due consideration has been given to all matters presented.

Regulatory History

This rulemaking action is in response to a petition for rulemaking. By letter dated September 14, 1977, Mr. James Gashel, Chief, Washington Office, National Federation of the Blind (NFB), Suite 212, Dupont Circle Building, 1346 Connecticut Avenue, NW., Washington, D.C. 20026, petitioned the Administrator to revoke those portions of Parts 121 and 123 of the FAR which deal with air transportation of persons who may need evacuation assistance. The FAA first denied the petition on March 10, 1978. The petition was reconsidered based, in part, upon a request by the FAA's Deputy Administrator that the Civil Aeromedical Institute (CAMI) in Oklahoma City conduct additional tests regarding the feasibility and safety of allowing blind persons to keep long, rigid (that is, not folding or telescoping) canes at their seats during takeoff and landing. CAMI accomplished the additional testing and on May 3, 1979, the FAA published in the **Federal Register** (44 FR 25869) the NFB petition and a summary of the CAMI report, and solicited public comments on questions relating to the use of canes by blind passengers. The petition and summary of the CAMI report were published as part of the agency's policy to maximize public involvement in the regulatory process. In addition, this enabled the agency to solicit all available information before a review of the issues presented in the NFB petition was completed to ensure that all regulatory alternatives were considered.

The NFB petition requested the following:

1. Amendment of § 121.13(a) to delete the phrase "121.586."
2. Repeal of § 121.586.
3. Amendment of § 121.589(a) to exclude flexible travel canes carried by blind persons from those items which must be stowed away from the passenger.
4. Amendment of § 123.27(k) to delete the phrase "121.574 and 121.586" and insert instead "and 121.574."

Section 121.13(a) specifies the Part 121 rules which apply to helicopter operations.

Section 121.586 states, in pertinent part, that no certificate holder may refuse transportation to a person who may need evacuation assistance unless the certificate holder has established procedures (including reasonable notice requirements) and the passenger fails to comply with the notice requirements or cannot be carried in accordance with the certificate holder's procedures.

Section 121.589(a) states, in pertinent part, that no certificate holder may permit an airplane to take off or land unless each article of baggage is properly stowed.

Section 123.27 specifies the rules of Part 121 which are applicable to holders of air travel club certificates.

For purposes of the petition it is assumed that the term "flexible travel canes" does not include folding or telescoping canes since those canes presently can be carried in accordance with § 121.589(a).

The NFB states the following in support of its petition:

> Our interest in the repeal of the above-listed FAR sections is as follows: The sections enforce procedures for the carriage of the handicapped on air carriers. The procedures work unreasonable hardship on the blind citizens of the United States in pursuit of their constitutionally protected activities for the following reasons:
>
> (1) The sections require blind citizens to follow procedures set up arbitrarily by private air carriers, which procedures are kept secret from those who must follow them.
>
> (2) The sections enforce humiliating, discriminatory, and unnecessary procedures to ensure "safety," although there is no evidence that the safety hazards cited actually exist.
>
> (3) The sections do not prohibit illegal discrimination in treatment of the handicapped by private air carriers.
>
> (4) The sections were published by the FAA after a long rulemaking process. The FAA published proposed regulations and elicited comments and held hearings on the proposed rules. The sections published as final regulations, however, bore so little similarity to the proposed rules as to nullify the validity of the process leading to their publication. These sections have not been submitted for public comment.

Published with the NFB petition was a summary of a CAMI report entitled "Considerations Relative to the Use of Canes by Blind Travelers in Air Carrier Cabins." This report was completed in 1979 and reported the results of tests accomplished to reveal some of the safety implications of allowing blind travelers to retain rigid canes at their seats during takeoff and landing. Among the issues considered in establishing the test program were the impact cane retention would have on an emergency evacuation, the relative utility of folding or telescoping canes versus rigid ones, the movement of an unsecured cane during high "g" decelerations, and the potential of canes for injuring passengers or damaging evacuation slides.

Also published with the NFB petition were specific questions to the public regarding the use of canes by blind persons aboard aircraft.

The publication of the NFB petition, the CAMI report summary, and the

questions posed by the FAA resulted in the receipt of 120 comments from various individuals, organizations affiliated with blind persons, and aviation organizations. The majority of these commenters expressed the view that blind passengers should be permitted to retain flexible travel canes at, or in the immediate vicinity of, their seats.

After consideration of the CAMI study and the responses to the NFB petition, it was decided to grant the petition.

On January 18, 1980, the FAA granted the petition submitted by NFB. The petition was granted to allow the initiation of rulemaking to permit the readily accessible stowage of flexible travel canes. It was determined that the special utility that canes have for blind passengers can be preserved while, with appropriate stowage, any conceivable safety hazard posed by their placement in readily accessible locations can be minimized.

The FAA published Notice 80–18 on November 11, 1980 (45 FR 75138), which proposed to amend Part 121. Interested parties were invited to submit comments and suggestions for consideration in formulating the final rule.

Discussion of the Amendments

In response to Notice 80–18, 31 comments were received. Thirty generally support the NPRM; one would have supported it if strapping canes in with the seat belt was permitted. The comments on the merits of the various proposals are discussed below.

After considering the comments, the FAA is amending Part 121 almost as proposed in Notice 80–18. Stowage of canes in overhead racks not equipped with approved restraining devices or doors will not be permitted. Some minor changes in wording and organizing the new materials also are made.

Stowage of Baggage

Under § 121.589, each article of baggage carried aboard by passengers must be stowed in a suitable baggage or cargo stowage compartment, in a cargo bin approved in accordance with § 121.285, or under a passenger seat. This stowage requirement only applies during takeoff or landing. All items carried on aircraft by passengers are considered to be "carry-on baggage." This includes articles of loose clothing, pocketbooks, attache cases, umbrellas, and canes. All these items must be stowed during takeoff and landing in accordance with § 121.589.

Most cargo stowage compartments will not accommodate items the length of a cane. Canes also will not fit under a passenger seat as specified in § 121.589. Therefore, on most aircraft, the current rule requires that canes be stowed in an appropriate cargo bin that is not always accessible to a blind passenger during flight. As pointed out by many commenters on the NFB petition this imposes a restriction on the mobility of blind passengers during flight since they must first obtain assistance from a flight attendant before they can obtain their canes.[1]

While the FAA agrees with many commenters that canes should be stowed near blind passengers, it is necessary that any method of stowage take into consideration the safety of all passengers and crewmembers. Proper stowage of baggage is directly related to the ability of individuals to evacuate an aircraft in an emergency. Improper stowage of baggage could result in blocked aisles or emergency exits, could cause delay in evacuation resulting in loss of crucial time, and could injure passengers or crewmembers. This was recognized in the Operations Review Program Notice No. 8 (43 FR 20452; May 11, 1978), which stated:

> During hard or crash landings carry-on baggage has become dislodged from stowage areas, inflicting injuries to passengers and hampering the emergency evacuation of the aircraft. The FAA believes that all carry-on baggage should be screened before being allowed aboard the aircraft to prevent loading of baggage which cannot be properly stowed.

As a result of these concerns, Part 121 was amended (Amendment 121–159 (45 FR 41586; May 19, 1980)) to make several changes to the carry-on baggage stowage requirements. These changes included: installing a means to prevent baggage stored under aisle seats from sliding sideward into the aisle; limiting items which may be placed in overhead racks; and requiring passenger compliance with these requirements. These rules lessen the number of problems crewmembers face and enable them to concentrate on their safety-related duties.

The FAA considers it essential that any modification to the regulations pertaining to carry-on baggage be consistent with these safety considerations.

Based upon the FAA's extensive examination of this subject, stowage of flexible travel canes using the following methods is consistent with the agency's safety mandate and ensures that they are readily accessible to blind passengers.

1. In accordance with § 121.589(a) (1), (2), or (3);

2. Under a series of passenger seats in the same row of the aircraft as long as the cane does not protrude into the aisle;

3. Between a window passenger seat and the fuselage as long as the cane is flat on the floor and is not in an exit row;

4. Beneath any window passenger seat and the seat directly in front of the passenger as long as the cane is flat on the floor; and

5. In accordance with any other method approved by the Administrator.

Notice 80–18 also proposed to permit stowage in an overhead rack with a solid bottom as long as the cane was flush with the bottom. This is not being implemented, as discussed below.

A brief discussion of these methods follows:

1. Current § 121.589 provides stowage requirements for all carry-on baggage including canes. Therefore, canes can be properly stowed in a suitable closet or baggage or cargo stowage compartments, in a cargo bin, or under a passenger seat.

2. Current § 121.589 allows carry-on baggage to be stowed under a passenger seat. This requires that the stowage be under a single seat. While a flexible travel cane will not fit under one seat, it will fit under a series of seats. New § 121.589(e)(1) allows a blind passenger to place her or his cane under a series of adjoining seats in the row immediately in front of her or him. This will make the cane readily accessible to the passenger. Any flexible cane stowed in this manner must be flat on the floor and must not protrude into an aisle. This will lessen the possibility that the cane will come dislodged. The proposed amendment did not specifically state that the cane must be flat on the floor, but this final rule includes those words to make this requirement clear. Four comments specifically address this method, all of which support the proposal.

Notice 80–18 proposed that the cane be "flush with" the floor. A commenter points out, however, that this wording could be construed to require that the cane be in a recess and rest beneath the surface of the floor. This is not what was intended. The FAA agrees that the "flush with" wording could be misconstrued. The wording of this section, and of § 121.589(e) (2) and (3) discussed below, is changed to specify that the cane must be "flat on" the floor. The cane must have its entire length resting on the surface of the floor.

[1] The Civil Aeronautics Board (CAB) is currently engaged in rulemaking which may affect this practice. In an NPRM (SPDR–70; 44 FR 32401; June 6, 1979), the CAB proposed that carriers be required to return canes to passengers other than during takeoff or landing.

3. Section § 121.589(e)(2) also allows canes to be placed between the window seat and the fuselage of the aircraft. A cane placed in such a location will be secure and should not interfere with passengers in the event of an emergency. The rule requires that the entire length of the cane be flat on the floor and does not allow such stowage in an exit row. Under Notice 80–18 the cane was required to be "flush with" the floor, but this wording is changed to "flat on," as discussed above.

4. Carry-on baggage can be placed under a single seat; however, flexible travel canes are too long to be stowed in this manner. New § 121.589(e)(3) allows blind passengers sitting at a window seat to place their flexible travel canes longitudinally underneath the seat in front of them and underneath their seat if the cane is adjacent to or as close as possible to the fuselage and the passenger is not in an exit row. Canes must be placed "flat on" the floor, as discussed above.

5. New § 121.589(e)(4) allows other methods of stowage if approved by the Administrator. To obtain approval, the particular carrier is required to submit a plan showing a method of stowage which would be secure and which would not interfere with evacuation in the event of an emergency. One possible method would be the use of clips secured to a bulkhead.

Stowage in accordance with these rules will give blind passengers ready access to their canes and will maintain the required level of safety.

In addition to submitting comments on the Notice 80–18 proposals, commenters were invited to suggest alternate methods of stowage. Several commenters suggest that clips or velcro strips be attached to bulkheads to secure canes. This may prove to be a satisfactory means of stowing canes. Under § 121.589(e)(4) of the new rule, individual certificate holders may submit such a method to the Administrator for approval.

Several commenters to Notice 80–18 continue to advocate that passengers be allowed to hold canes during takeoff and landing while securing them under their seat belts. This method was examined by the CAMI in its report, "Considerations Relative to the Use of Canes by Blind Travelers in Air Carrier Aircraft Cabins." This report is in the docket and a summary was published with the NFB petition in the **Federal Register**. The FAA has determined that securing canes in seat belts with the passenger creates safety hazards for both the blind passenger and for others. With some methods of stowage, the cane is resting next to the body and the seat belt unavoidably has some slack. During a crash, an occupant with a slack seat belt will tend to impact the belt with sufficient speed to cause some injury, perhaps to internal organs. The cane next to the body may break, and will tend to be forced into the body. Another method of stowage is to have the cane handle inserted into the corner area between the seat belt and seat fabric, with the other end inserted under the seat in front of the passenger. However, in order to exit from the row, passengers would have to step over the cane or the cane would have to be removed. This would create an unacceptable delay and possibility of tripping in an emergency evacuation. In view of the alternate methods of stowage allowed by this amendment, and because of the safety hazards involved, stowage of travel canes under the seat belts is not allowed.

New § 121.589(e) (2) and (3) do include some restrictions for blind passengers: if they are seated in exit rows, they may not store their canes near the windows in the methods indicated. While several commenters object to any restrictions on passenger seating, the rule is considered to provide a minimal restriction on the individual. Every effort was made in developing this rule to afford blind passengers the same rights as all others traveling by air. Similar to restrictions placed on other items utilized by passengers, certain restrictions as to the locations in which canes can be stowed are necessary. The Association of Flight Attendants (AFA) in its well-thought-out comment perhaps best addresses this issue by stating:

> The Association does not advocate the unrestricted right of a blind passenger to retain his cane with him during flight, under any conditions he alone determines. Such a situation where one individual can make an arbitrary decision which may adversely affect the safety of others is intolerable. AFA does assert, though, that the various alternatives discussed above [this refers to the alternatives discussed in its comments, not necessarily to the alternatives in this rulemaking] are consistent with both the safety of all passengers and a blind traveler's desire to retain his cane. If a blind passenger is given the choice of either carrying a folding cane or carrying a rigid cane, but being seated in a particular seat, it seems obvious that reasonable efforts have been made to accommodate the particular needs of these travelers.
>
> The fact that a limitation on seat selection may be incidental to one of these options is immaterial for three reasons. First, a blind passenger could effectively avoid the seat limitation by opting to carrying a folding cane. Second, only those seats located in exit rows or lacking the physical constraints for securing canes would be affected by the restriction. An adequate selection of seats would still be available. Third, no passenger—blind or not blind—is ever guaranteed that he will have the seat he wants on the flight he wants on the day he wants. The realities of high passenger volume in air travel simply do not permit such guarantees. Thus, the question of whether a blind passenger is "willing" to sit in certain seats need not even be considered if adequate alternatives, as indicated above, are available.

Section 121.589(b), effective August 31, 1980, states that the only baggage that may be placed in an overhead rack without restraining devices or doors are articles of loose clothing. Under Notice 80–18, a proposal was made to permit flexible travel canes to be placed in such racks if they had solid bottoms. These racks are immediately above the passengers and would have placed the canes within the reach of passengers. It was reasoned that flexible travel canes are light enough not to cause any danger to passengers if they were in such a rack. In addition, it was anticipated that, in most cases, other items would be placed on top of the canes in the racks, lessening the possibility that they would come out of the rack.

Of the seven comments received particularly addressing this method, five commenters, including one blind person and four aviation associations, object to the proposal. The Air Line Pilots Association maintains that stowage in racks without doors does not provide adequate safety. The Association of Flight Attendants states that it cannot be assumed that other articles would be placed on top of the canes, and that placing canes in open racks would produce an unacceptable safety hazard. As stated by the Aerospace Industries Association of America:

> Even lightweight, flexible canes can become dangerous missiles during unplanned high "G" load conditions. The sharp ends especially can be hazardous to personnel, particularly to the eyes, ears and face. We believe the provisions of 121.589 as amended by adding paragraph 4 provide sufficient alternatives for stowage of flexible canes by blind travelers to obviate the need for unrestrained stowage in overhead racks.

After further considering the potential hazards, the FAA agrees with these commenters. The other methods are sufficient to provide convenient stowage of canes. Accordingly, because of the potential safety hazard involved, stowage of canes in open overhead racks is not permitted.

In Notice 80–18 the proposed amendments to § 121.589 were to be inserted as new paragraph (4) to paragraph (a). The wording of the amendment does not complete the sentence of paragraph (a), however.

These alternate methods of stowing travel canes therefore are incorporated in a new paragraph (e). Paragraph 121.589(c) is amended to require that passengers comply with instructions given by crewmembers regarding compliance with new paragraph (e).

Some commenters suggest that a definition of "flexible travel cane" be inserted into the regulations. While they are not subject to precise definition, they can be described as follows: flexible travel canes are lightweight, generally long and thin, generally made of aluminum or fiberglass, usually of white or metallic color. These amendments do not include the heavier, shorter canes, such as those used for support in walking. It is the light weight and the flexibility of the travel canes which allow their safe stowage under this amendment.

Passengers Needing Assistance

Notice 80–18 proposed amending § 121.586 which relates to the transportation of individuals. Section 121.586 provides that no certificate holder may refuse transportation to a passenger who may need the assistance of another to move expeditiously to an exit in the event of an emergency unless the certificate holder has established procedures (including notice requirements) relating to such persons, and either the passenger has not complied with the notice requirements of the procedures or the passenger cannot be carried in accordance with the procedures.

The NFB points out that passengers have had difficulty in obtaining information from the carriers concerning the procedures established in accordance with § 121.586. The FAA agrees that this point has merit and, therefore, is amending § 121.586 to require that all procedures established by the certificate holder under this section be made available to the public at each airport served by the certificate holder. A carrier would meet this requirement by having one complete set of these procedures available for inspection by any interested individual.

Notice 80–18 invited comments as to whether these procedures should also be available at locations other than airports and whether they should be available in braille. Of the two comments specifically addressing this issue, one supports the amendment as proposed, and one wishes it expanded. Making procedures "available to the public" encompasses more than merely providing a copy for public inspection. It is anticipated that certificate holders will explain their procedures to all who inquire. Further, not all blind people read braille. In view of these considerations, and the extra costs that would be involved, it is not considered necessary to require that braille copies be made available. It has further been determined that it is not necessary to require availability at locations other than airports.

The grant of petition included the following discussion of another issue raised in the NFB petition:

> In addition, that portion of the NFB petition that requires the initiation of rulemaking concerning the amendment of § 121.586 which governs the carriage of persons who may need the assistance of others in the event of an emergency evacuation is granted. Inasmuch as § 121.586 was promulgated for the benefit of an airline passenger population that greatly exceeds the potential airline passengers currently represented by the NFB, and since there was virtually no comment from the public on that section when the NFB petition was published, comment will be sought from the public before any action is taken to amend or repeal its protective provisions.

The FAA has received some complaints about inequities existing in the air carrier procedures. The CAB, as part of SPDR–70 (see footnote 1), is currently reviewing air carrier procedures to determine what is discriminatory. Included in that notice are questions relating to refusal of service and availability of service and equipment. Consistent with a stated purpose of Executive Order 12291, signed by the President on February 17, 1981, the FAA will not duplicate the regulatory effort of the CAB.

In Notice 80–18, the FAA sought comments on whether blind individuals should be excluded from the requirement of § 121.586. In its petition, the NFB questions the need for this section. Two comments specifically address this question, one supports and one opposes including blind individuals in § 121.586. Clear evidence has not been presented to show that this rule has created unnecessary burdens and, therefore, should be amended. In light of this and the CAB review, the FAA will take no action at this time but will continue to monitor developments.

Economic Evaluation

The FAA conducted a regulatory evaluation which is included in the regulatory docket for this action. FAA determined that there is only a minimal-to-negligible cost impact on certificate holders. Specifically, each Part 121 certificate holder is required to make available to the public at each airport it serves a copy of each procedure it establishes in accordance with § 121.586(a)(1), the cost of which is considered minimal. Costs to certificate holders associated with the amendments to § 121.589 are negligible. These costs involve informing their employees as to the requirements of the new regulation.

This final rule provides benefits to the blind population that chooses to fly. It relieves hardships on blind citizens by allowing more convenient stowage of flexible canes, relaxes restrictive procedures by providing alternate safe methods of stowing flexible travel canes, and eliminates the conflicts which have existed between the requirement to safely stow all carry-on baggage and the desires of blind passengers to keep their canes near them. It makes available more readily the established procedures of the certificate holder concerning carriage of passengers who may need evacuation assistance. In addition, stowage of flexible travel canes in an area that is readily accessible preserves the special utility of canes for the blind person.

Accordingly, the benefits of this amendment outweight any burden created.

Adoption of the Amendment

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended, effective November 20, 1981, as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By adding a new paragraph (d) to § 121.586 to read as follows:

§ 121.586 Authority to refuse transportation.

* * * * *

(d) Each certificate holder shall make available to the public at each airport it serves a copy of each procedure it establishes in accordance with paragraph (a)(1) of this section.

2. By amending § 121.589(c) and adding a new paragraph (e) to read as follows:

§ 121.589 Carry-on baggage.

* * * * *

(c) Each passenger must comply with instructions given by crewmembers regarding compliance with paragraphs (a), (b), and (e) of this section.

* * * * *

(e) In addition to the methods of stowage in paragraph (a), flexible travel canes carried by blind individuals may be stowed—

(1) Under any series of connected passenger seats in the same row, if the

cane does not protrude into an aisle and if the cane is flat on the floor; or

(2) Between a nonemergency exit window seat and the fuselage, if the cane is flat on the floor; or

(3) Beneath any two nonemergency exit window seats, if the cane is flat on the floor; or

(4) In accordance with any other method approved by the Administrator.

(Secs. 313(a), 601, 602, and 609 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 Cal, 1421, 1422, and 1429), and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1055(c)))

Note.—The FAA has determined that this amendment will have minimal cost impact. Specifically, there will be only a minimal impact on certificate holders (for some additional copies of a few pages contained in their manuals). It, therefore, is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on June 22, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-20806 Filed 7-22-81; 8:45 am]

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federal register

Thursday
July 23, 1981

Part III

Department of Transportation

Federal Aviation Administration

Aircraft Major Repairs; Proposed Rule and Advisory Circular

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1 and 43

[Docket No. 21988; Notice No. 81-10]

Major Repairs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes certain actions which will improve understanding of the term "major repair" and corollary terms used in relation to maintenance and repair procedures for aircraft, airframes, aircraft engines, propellers, and appliances. This action is desirable to preclude incorrect repair classification which may result in repairs being approved for return to service by unauthorized persons or in an unknown or questionable condition. It is proposed to delete the current section on major repair from Appendix A of Part 43 and publish it, after updating, as an advisory circular. The advisory circular will discuss in detail those areas most frequently misunderstood.

DATE: Comments must be received on or before September 21, 1981.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC-204), Docket No. 21988, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. All comments must be marked: Docket No. 21988. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch (ABS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications must identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21988." The postcard will be date and time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular 11-2 which describes the application procedures.

Background

The scheme of maintenance regulations established in Parts 43, 91, and 121 of the FAR depends in part upon a threshold determination of whether a specific required aircraft repair is "major" or "minor," since that classification will dictate the type of repair data required for proper accomplishment of the work, and the correct procedures to return the repaired aircraft to service.

Classifying major repairs as minor repairs may result in an aeronautical products being approved for return to service by unauthorized person following maintenance or repair of unknown or questionable quality, and without the mechanical reliability and alteration and repair reports required under §§ 121.703 and 121.707, respectively. Conversely, classifying minor repairs as major repairs can result in wasted technical and administrative man-hours.

To determine the proper classification of a repair, persons making the repair have traditionally referred to the definitions in § 1.1 and paragraph (b) of Appendix A of Part 43. While the definitions in Part 1 provide the fundamental distinction between "major" and "minor" repairs, § 43.3(a) directs these persons to Appendix A for specific guidance to determine those repairs which are "major." This list is frequently misinterpreted as being all-inclusive rather than a list of examples, as intended, and results in improper classification of repairs. In addition, the appendix frequently fails to deal with repair situations encountered in modern aircraft.

To provide a document which states the meaning to these terms in a format which can be easily amended and facilitate repair classification, the FAA proposes to remove paragraph (b) from Appendix A, and incorporate it in an advisory circular (published elsewhere in this issue) in which the definitions of the terms "major repair" and "minor repair" are discussed. This will reduce regulatory material and is consistent with the President's goal of reforming the regulatory process. The appropriate use of "acceptable methods, techniques, and practices" and "technical data approved by the Administrator" would also be discussed because, certain instances, the proper repair classification depends upon the procedures used and the data available. However, in all instances, proper completion of the repair and regulatory compliance depend upon the application of appropriate repair data and procedures. In addition to the proposed deletion of paragraph (b) of Appendix A of Part 43, the FAA proposes to delete the phrase ", a major repair," from § 43.3 for regulatory consistency.

Economic Impact

A decrease in the number of incidents of incorrect classification of aircraft repairs and the return to service of improperly repaired equipment, by mechanics, repair stations, manufacturers' maintenance facilities, and air carriers is expected to result from the proposed amendment.

Costs

The costs to the Government would be incurred in revising and promulgating the revision to Part 43. Since regulatory revision is an on-going aspect of the FAA program, the costs of revising Part 43 would be negligible.

The aviation industry will not incur additional costs if the proposed amendments is adopted. The advisory circular proposes to amplify and clarify the already existing definitions of minor and major repair and corollary terms used in repair procedures. It would not impose any new or additional requirements on the industry.

Benefits

Although the aggregate savings in any given year by the aviation industry and the Government as a result of adopting the proposal has not been determined, implementation is expected to benefit the FAA and the industry. All categories of repair facilities are expected to benefit from the clarifications contained in the advisory circular due to a decrease in the incidence of erroneous classification of aircraft repairs, and the avoidance of unnecessary technical and processing costs encountered when a minor repair is improperly classified as major. Additionally, major repairs improperly classified as minor can result in a derogation of safety and costly duplication of repair procedures to comply with FAA prescribed standards.

Benefits to the Government are anticipated from a decrease in improper repair classifications by repair facilities. Specifically, the proposal is expected to reduce FAA administrative and legal costs associated with the investigation, processing, and prosecution of Enforcement Investigation Reports issued for repair and maintenance violations.

Regulatory Flexibility

Under the criteria of the Regulatory Flexibility Act, this proposed rule at promulgation will not have a significant impact on a substantial number of small entities.

The Proposed Amendment

In consideration of the foregoing, it is proposed to amend Part 43 of the Federal Aviation Regulations (14 CFR Part 43) as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

By removing the phrase ", a major repair," from § 43.3(a), by removing the phrase ", major repairs," from the title of Appendix A, by removing the phrase ", major repairs," from the Part 43 index, and by removing paragraph (b) of Appendix A and marking it "[Reserved]."

(Secs. 313(a), 314, 601, and 602 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1355, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. Sec. 1655(2)); 14 CFR 11.45)

Note.—The FAA has determined that this document does not propose to impose any new or additional requirements upon aircraft owners or operators. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on July 2, 1981.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 81-21551 Filed 7-22-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular for Aircraft Major Repairs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on a proposed advisory circular.

SUMMARY: The proposed advisory circular (AC) will improve the understanding of the term "major repair" and corollary terms used in relation to maintenance and repair procedures for aircraft, airframes, aircraft engines, propellers, and appliances. This should reduce the incidence of incorrect repair classification which can result in repairs being approved for return to service by unauthorized persons or in a questionable or unknown condition. The advisory circular discusses in detail those areas most frequently misunderstood.

DATE: Comments must be received on or before September 21, 1981.

ADDRESS: Interested parties are urged to submit their comments on the proposed advisory circular. Commenters are also requested to provide information concerning additional or other actions which would assist in alleviating the problem. Comments may be mailed to: Federal Aviation Administration, Office of Airworthiness, Aircraft Maintenance Division (AWS-340), 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered to: Room 313, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected at Room 313 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Schaffer, General Aviation Commercial Branch (AWS-340), Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8203.

SUPPLEMENTARY INFORMATION:

Discussion of the Draft Advisory Circular

The scheme of maintenance regulations established in Parts 43, 91, and 121 of the FAR depends in part upon a threshold determination of whether a specific required aircraft repair is "major" or "minor," since that classification will dicate the type of repair data required for proper accomplishment of the work, and the correct procedures to return the repaired aircraft to service.

Classifying major repairs as minor repairs may result in an aeronautical product being approved for return to service by unauthorized persons following maintenance or repair of unknown or questionable quality, and without the mechanical reliability and alteration and repair reports required under §§ 121.703 and 121.707, respectively. Conversely, classifying minor repairs as major repairs can result in wasted technical and administrative man-hours.

To determine the proper classification of a repair, persons making the repair have traditionally referred to the definitions in § 1.1 and paragraph (b) of Appendix A of Part 43. While the definitions in Part 1 provide the fundamental distinction between "major" and "minor" repairs, § 43.3(a) directs these persons to Appendix A for a specific guidance to determine those repairs which are "major." This list is frequently misinterpreted as being all-inclusive rather than a list of examples, as intended, and results in improper classification of repairs. In addition, the appendix frequently fails to deal with repair sutuations encountered in modern aircraft.

To provide a document which states the meaning of these terms in a format which can be easily amended and facilitate repair classification, the FAA proposes to remove paragraph (b) from Appendix A (published elsewhere in this issue), and incorporate it in an advisory circular in which the definitions of the terms "major repair" and "minor repair" are discussed. This will reduce regulatory material and is consistent with the President's goal of reforming the regulatory process. The appropriate use of "acceptable methods, techniques, and practices" and "technical data approved by the Administrator" would also be discussed because, in certain instances, the proper repair classification depends upon the procedures used and the data available. However, in all instances, proper completion of the repair and regulatory compliance depend upon the application of appropriate repair data and procedures. In addition to the proposed deletion of paragraph (b) of Appendix A of Part 43, the FAA proposes to delete the phrase ", a major repair," from § 43.3 for regulatory consistency.

The Proposed Advisory Circular

In accordance with the above, the FAA publishes proposed Advisory Circular AC 43-XX, Aircraft Major Repairs, as follows:

Issued in Washington, D.C. on July 2, 1981.

M. C. Beard,
Director of Airworthiness.

Subject: Aircraft Major Repairs

1. *Purpose:* This advisory circular (AC) provides information and guidance concerning major repairs to aircraft, airframes, aircraft engines, propellers, and appliances.

2. *Related Federal Aviation Regulations (FAR):* Part 1, § 1.1; Part 21, § 21.289; Part 43, §§ 43.3, 43.5, 43.7, 43.9, 43.17, Appendix A, and Appendix B; Part 65, §§ 65.81, 65.85, 65.87, 65.95; Part 91, Subpart C; Part 121, §§ 121.379, and 121.707; Part 127, Special Federal Aviation Regulations (SFAR) No. 36; Part 135, § 135.437; and Part 145, § 145.51.

3. *Background:* Guidance material relating to aircraft major repairs is contained in the FAR and other documents prepared by the Federal Aviation Administration (FAA) and the aviation industry. In view of the diversity and volume of this material, this AC has been prepared to provide consolidated information concerning the terms, definitions, and regulatory requirements associated with major repairs.

4. *Discussion:* To more easily understand the classification of repairs as major or minor, it may be well to discuss repair in general. FAR Part 1 defines maintenance as, "inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance." By inference then, "repair," generally, is maintenance other than "inspection, overhaul, preservation, the replacement of parts, and preventive maintenance." However, in the past, repair has included "the replacement of parts," when that replacement required the use of fabrication techniques. This distinction is preserved. Therefore, "repair" includes the replacement of parts which require the use of a fabrication process such as, riveting or welding, or when structural parts used as replacement parts are fabricated.

5. *Definitions:* A frequently encountered problem involves the erroneous classification of aircraft repairs. A major repair mistakenly classified as minor can result in it being accomplished without the use of approved data and improperly approved for return to service. Erroneous classification may thus adversely affect safety. Conversely, classifying a minor repair as major results in unnecessary technical and administrative processing. To avoid such errors, the following terms must be clearly understood.

a. *Major repair*, as defined in FAR § 1.1, means a repair—

"(1) that, if improperly done, might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness; or

(2) that is not done according to accepted practices or cannot be done by elementary operations."

Note.—In this context "improperly done" connotes deficiencies in workmanship, or the failure to use appropriate instructions, data, methods, techniques, tooling, or other factors, while "appreciably" is taken to mean measurably.

b. *Minor repair*, as defined in FAR § 1.1, means a repair other than a major repair.

c. *Approved*, as defined in FAR § 1.1, and unless used with reference to another person, means approved by the Administrator. Under this definition, the Administrator is the Federal Aviation Administrator, or any person to whom the Administrator has delegated authority in the matter concerned.

d. *Acceptable* is not defined in the FAR, but is used in connection with methods, techniques, and practices which the Administrator accepts in lieu of those prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by the manufacturer.

6. *Major Repairs:* FAR §§ 43.3, 43.5, 65.95, 121.379(b), 127.140(b), 135.437(b), and 145.51 each require an aircraft, airframe, aircraft engine, propeller, or appliance, which has undergone major repair, to have had the work accomplished in accordance with technical data approved by the Administrator. Major repairs which meet the regulatory requirements generally fall into three groups:

a. *Those accomplished* using technical data previously approved by the Administrator. Such data may be used by any person authorized by FAR Part 43 to make repairs or to approve products for return to service after major repairs.

b. *Those accomplished* using technical data developed for the specific repair involved. Such data, except for that developed under SFAR No. 36, requires approval by the Administrator, and that approval is required prior to the product being approved for return to service. Approval and the limitations on the use of the approved data is normally indicated in Item 3 of FAA Form 337 (Major Repair and Alteration, Airframe, Powerplant, Propeller or Appliance).

c. *Those accomplished* without benefit of approved data. Such repairs are usually accomplished in anticipation of the finished repair being evaluated and approved or disapproved by the Administrator. Approval or disapproval is normally indicated in Item 7 on FAA Form 337. Use of this procedure may result in delay in gaining approval with resulting delays in approval for return to service.

7. *Examples of "Approved" Data:* Any aircraft, airframe, aircraft engine, propeller, or appliance which has undergone a major repair must have had the work accomplished in accordance with "technical data approved by the Administrator" prior to its being approved for return to service. This is recognized by FAR Part 43, §§ 65.95, 121.379(b), 127.140(b), 135.437(b) and 145.51. The following are examples of approved data:

a. *Manufacturer's maintenance* and repair manuals, service bulletins, service letters, and instructions associated with service kits, provided the applicable portion of such documents bear indication of FAA approval.

b. *Major Repair and Alteration*, FAA Form 337, when Item 3 on the obverse of the form has been executed by an FAA inspector indicating approval of data.

c. *Airworthiness Directives.*

d. *Supplemental Type Certificate* data, provided the applicability extends to the specific article being repaired and is appropriate for the repair being made.

e. *Parts Manufacturer Approvals.*

f. *FAA approved* data approved under Delegation Option Authorization procedures.

g. *Designated Alteration Station* authorization approvals.

h. *FAA approved* data approved under Designated Engineering Representative (DER) procedures.

i. *Other data* that is approved by the Administrator and bears indication of that approval.

8. *Acceptable Methods, Techniques, and Practices:* An aircraft, airframe, aircraft engine, propeller, or appliance which has undergone a MINOR REPAIR may be approved for return to service without further showing by a person authorized in § 43.7 of the FAR provided the work was done using methods, techniques, and practices prescribed in the manufacturer's current maintenance manual or Instructions for Continued Airworthiness prepared by the manufacturer. Other methods, techniques, and practices acceptable to the Administrator may be used in lieu of those of the manufacturer. The following is a list of sources of acceptable methods, techniques, and practices, even though they may not be marked FAA approved.

a. *Current manufacturer's* maintenance manuals or Instructions for Continued Airworthiness.

b. *Current manufacturer's* overhaul and repair manuals which are referenced in the manufacturer's maintenance manual.

c. *Manufacturer's service bulletins and letters not marked FAA approved.*

d. *Air carrier* maintenance, overhaul, and repair manuals.

e. *Military maintenance manuals*, handbooks, and technical orders applicable to surplus military aircraft.

f. *Data developed* by persons under the authority of SFAR No. 36.

Note.—Persons issued an authorization under SFAR No. 36 may approve aeronautical products for return to service after MAJOR REPAIR using data acceptable to the Administrator (developed in accordance with SFAR No. 36), even though such data is not specifically "approved by the Administrator."

g. *Advisory Circular 43.13–1A*, Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair.

9. *Special Instructions for Use of Advisory Circular 43.13–1A.*

a. *Advisory Circular 43.13–1A*, (Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair), has proven satisfactory, over a period of years, for use as "technical data approved by the Administrator" in making major repairs and in approving products for return to service after major repair. However, the person using the advisory circular must exercise precautions or such use may result in products being returned to service in an unsafe condition. Therefore, the user must determine that those paragraphs and/or figures used in connection with major repairs are:

(1) Appropriate to the precise repair being made;

(2) Appropriate to the precise product being repaired; and

(3) Not contrary to the manufacturer's current maintenance manual or Instructions for Continued Airworthiness prepared by the manufacturer.

b. *Broad reference* to Advisory Circular 43.13–1A in maintenance records is not appropriate. Reference to the specific paragraphs and/or figures selected from the advisory circular for use as "technical data approved by the Administrator" is required in all maintenance record entries and required forms.

10. *Performance Rules:* FAR Part 43, Section 43.13, imposes general performance rules for persons performing maintenance (including

major repairs). The section provides in effect that:

a. *Each person* making repairs shall use methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by the manufacturer or other methods, techniques, and practices acceptable to the Administrator.

b. *The person* shall use tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices.

c. *If special equipment* or test apparatus is recommended by the manufacturer involved, then the person must use that equipment or apparatus, or its equivalent, acceptable to the Administrator.

d. *In addition,* the work shall be done in such a manner, and the material used of such quality, that the condition of the product, appliance, or part worked on will be at least equal to its original or properly altered condition.

e. *In the case of an air carrier or commercial operator,* and unless otherwise notified by the Administrator, the methods, techniques, and practices contained in its own maintenance manual(s) constitute acceptable means for performing repairs.

11. *Procedural and Administrative Processing:* While the performance rules of FAR Part 43 are applicable to all entities performing major repairs, the specific procedures for approval for return to service are dependent upon the certificate under which approval for return to service is authorized. An air carrier might use an engineering authorization or order, a certificated repair station might use a work order, while a mechanic with inspection authorization might use an FAA provided form (FAA Form 337). The recording and administrative processing of major repairs are as follows:

a. *General Aviation.* FAR Part 43, § 43.9, provides, in effect, that each person who performs a major repair on an aircraft, airframe, aircraft engine, propeller, or appliance shall make an entry in the maintenance record of that equipment containing:

(1) *A description* (or reference to data acceptable to the Administrator) of the work performed.

(d) *The date* of completion of the work performed.

(3) *The name* of the person performing the work.

(4) *If the work performed* is approved for return to service, the signature (and, if a certificated mechanic, the certificate number) of the person who approved it.

(5) *In addition to the above entry,* FAR Part 43, Appendix B, requires each person who performs a major repair to prepare the FAA Form 337 in duplicate. The original form is given to the aircraft owner and the duplicate copy sent to the local FAA District Office within 48 hours after the repair has been approved for return to service. The form provides the aircraft owner/operator with a record of the details of the repair, a certification that the work was accomplished in compliance with the applicable FAR, a record of who accomplished the work, and that the person accomplishing the work was certificated and appropriately rated. The copy provided to the FAA allows timely follow-up as deemed necessary and is maintained in the Airmen and Aircraft Registry (Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Okla. 73125) in the event the owner/operator has need for the information in the future. Details concerning FAA Form 337 can be found in Advisory Circular 43.9–1 (current issue), Instructions for Completion of FAA Form 337, Major Repair and Alteration Airframe, Powerplant, Propeller, or Appliance.

b. *Air Carrier or Commercial Operators* with approved continuous airworthiness maintenance programs generally use an engineering authorization form compatible with their maintenance administrative system to authorize and record major repairs. The authorization may identify the FAA-approved data used for accomplishment of the repair, or it may serve as the data approval vehicle. Exact procedures to be used are contained in the operator's maintenance manual. These procedures are designed to ensure that technical data and methods, techniques, and practices used in accomplishing repairs are determined to be approved and acceptable prior to approval of the item for return to service.

c. *Repair Stations* have the option under FAR Part 43, Appendix B, or SFAR No. 36 to record major repairs as follows:

(1) *Execute FAA Form 337* in duplicate; or

(2) *Use the customer's* work order upon which the repair is recorded (FAR Part 43, Appendix B, paragraph (b));

(3) *Provide the owner* a maintenance release that properly identifies the article repaired and the location of the repaired area;

(4) *Make an entry* in the log or other record provided by the carrier for such work when a repair is made on a certificated air carrier's aircraft; and

(5) *Provide the records* required by the authorization issued under SFAR No. 36.

12. *Examples of Major Repairs.* The following is a list of repairs generally considered by the FAA to constitute major repairs as defined in § 1.1. The listed items are examples to facilitate judgment and are not all-inclusive. When repairs of a questionable classification are made, the person making the repair must determine the proper classification (major or minor) of the repair, based on the definition in § 1.1 of the FAR, the material in this advisory circular, and, if questions still exist, by consultation with the FAA.

a. *Airframe:* Repairs to the following parts of an airframe and repairs of the following types, involving strengthening, reinforcing, and splicing, and the manufacture of primary structural members or their replacement, when replacement is by fabrication such as riveting or welding, are generally considered to be major repairs.

(1) Box beams.

(2) Monocoque or semimonocoque wings or control surfaces.

(3) Wing stringers or chord members.

(4) Spars.

(5) Spar flanges.

(6) Members of truss-type beams.

(7) Thin sheet webs of beams.

(8) Keel and chine members of boat hulls or floats.

(9) Corrugated sheet compression members which act as flange material of wings or tail surfaces.

(10) Wing main ribs and compression members.

(11) Wing or tail surface brace struts.

(12) Engine mounts.

(13) Fuselage longerons.

(14) Members of the side truss, horizontal truss, or bulkheads.

(15) Main seat support braces and brackets.

(16) Landing gear brace struts.

(17) Axles.

(18) Wheels.

(19) Skis, and ski pedestals.

(20) Parts of the control system such as control columns, pedals, shafts, brackets, or horns.

(21) Repairs involving the substition of material.

(22) The repair of damaged areas in metal or plywood stressed covering exceeding 6 inches in any direction.

(23) The repair of portions of skin sheets by making additional seams.

(24) The splicing of skin sheets.

(25) The repair of three or more adjacent wing or control surface ribs or the leading edge of wings and control surfaces, between such adjacent ribs.

(26) Repair of fabric covering involving an area greater than that required to repair two adjacent ribs.

(27) Replacement of fabric on fabric covered parts such as wings, fuselages, stabilizers, and control surfaces.

(28) Repairing, including rebottoming, or removable or integral fuel tanks and oil tanks.

(29) Disassembly and reassembly of helicopter main rotor transmissions.

(30) Disassembly and reassembly of helicopter tail rotor gear boxes, including drive quills and angle boxes.

(31) Disassembly and reassembly of helicopter main rotor hub assemblies, excluding removal of blades from the yoke.

(32) Any repair to Structural Significant Items (SSI) as defined by the Maintenance Review Board (MRB) process on transport category airplanes is considered to be a major repair. SSI are those local areas of primary structure which are judged by the manufacturer to be relatively the most important from a fatigue or corrosion vulnerability standpoint or from a failure effects standpoint.

b. *Powerplant:* Repairs of the following parts of an engine and repairs of the following types are generally considered to be major repairs.

(1) Separation, disassembly, or reassembly of a crankcase or crankshaft of a reciprocating engine equipped with an intergral supercharger.

(2) Separation, disassembly, or reassembly of a crankcase or crankshaft of a reciprocating engine equipped with other than spur-type propeller reduction gearing.

(3) Special repairs to structural engine parts of welding, plating, metalizing, or other methods.

(4) Welding of crankcases.

(5) Machining operations necessitated by weld reparis.

(6) Crankshaft grinding.

(7) Camshaft recontouring and similar complex or precision machining.

(8) Boring crankshaft or camshaft bosses.

(9) Machining oil pump housings, accessory drive pads, etc.

(10) Disassembly and reassembly of modules in modular type turbine engines.

(11) Disassembly and reassembly of main sections of nonmodular turbine engines.

(12) Welding or machining operations on structural members or rotating parts of turbine engines.

c. *propeller:* Repairs of the following types to a propeller are generally considered to be major repairs.

(1) Any repairs to, or straightening of steel blades.

(2) Repairing or machining of steel hubs.

(3) Shortening of blades.

(4) Retipping of wood propellers.

(5) Replacement of outer laminations on fixed-pitch wood propellers.

(6) Repairing elongated bolt holes in the hub of fixed-pitch wood propellers.

(7) Inlay work on wood blades.

(8) Repairs to composition blades.

(9) Replacement of tip fabric.

(10) Replacement of plastic covering.

(11) Repair of propeller governors.

(12) Overhaul of controllable pitch propellers.

(13) Repairs to deep dents, cuts, scars, nicks, etc., and straightening of aluminum blades.

(14) The repair or replacement of internal elements of blades.

d. *Appliance:* Repairs of the following types to appliances are generally considered to be major repairs.

(1) Calibration and repair of instruments.

(2) Calibration and repair of radio equipment.

(3) Rewinding of field coil of an electrical accessory.

(4) Complete disassembly of complex hydraulic power valves.

(5) Overhaul of pressure type carburetors, and pressure type fuel, oil, and hydraulic pumps.

Notes.—(1) *Calibration* involves those work functions which cause the instrument or radio equipment to perform within specified tolerances. It may require special skills and knowledge and the use of test equipment. It does not include those adjustments of instruments and equipment which are accomplished using readily accessible and simple adjusting means, including adjustments that are normally accomplished during cockpit checklist procedures, the adjusting of the zero setting of meter scales, and simple testing to determine error in instrument performance operation. These work functions do not have appreciable effects on the instruments or equipment and do not require special skill and knowledge of the use of test equipment.

(2) *Radio equipment* is any item of equipment on the aircraft which utilizes the transmission and/or reception of radio waves. The calibration of radio equipment, regardless of its function, is classified as a major repair.

[FR Doc. 81-21523-filed 7-22-81; 8:45 am]

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federal register

Thursday
July 23, 1981

Part IV

Department of Transportation

Federal Aviation Administration

Parts Manufacturer Approval; Falsification of Airworthiness Certification Documents

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 21 and 45

[Docket No. 17147; Notice No. 77-19D]

Parts Manufacturer Approval; Falsification of Airworthiness Certification Documents

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of comment period.

SUMMARY: This notice reopens the comment period for initial and reply comments to Notice 77-19C (46 FR 3776; January 15, 1981). That notice, which, in part, pertains to Parts Manufacturer Approvals (PMA's), withdraws and supersedes outstanding notices and proposes amended PMA rules which will eliminate unnecessary procedural burdens, improve safety, and standardize the PMA process between FAA regions. This action is in response to a request from Superior Air Parts, Inc., for additional time to evaluate the proposal and submit its comments.

DATES: Initial comments must be received on or before August 24, 1981; reply comments must be received on or before September 21, 1981.

ADDRESS: Comments on Notice 77-19C may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 17147, 800 Independence Avenue SW., Washington, D.C. 20591. All comments must be marked "Docket No. 17147."

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn M. Sidwell, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of the proposal contained in Notice 77-19C may also be submitted. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. Initial comments must be received on or before the first date specified above. Reply comments which specifically respond to the initial comments on this notice must be received on or before the second date specified above. All communications received on or before these dates will be considered by the Administrator before taking action on the proposed rule. The proposals contained in Notice 77-19C may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket between 8:30 a.m. and 5 p.m. for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of the proposal will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 17147." The postcard will be dated, time stamped, and returned to the commenter.

Additional Copies of Notice

Any person may obtain a copy of Notice 77-19C by submitting a request to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, telephone (202) 426-8058. Each communication must identify the notice number of this Notice of Proposed Rulemaking. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

Background

On August 24, 1977, the FAA issued Notice 77-19 (42 FR 43985; September 1, 1977). The FAA proposed to: (1) revise the application and reporting requirements applicable to Parts Manufacturer Approvals (PMA); (2) clarify the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate (TC); (3) update certain form number references; (4) provide for the issuance of export certificates of airworthiness for unassembled normal category rotorcraft; and (5) provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such conditions.

The comment period was reopened twice to allow persons and organizations to submit comments to the docket.

The portions of the notice dealing with form number revisions and export airworthiness requirements (Items 3, 4, and 5) were adopted by Amendment 21-48 (44 FR 15648; March 15, 1979).

On January 8, 1981, the FAA issued Notice 77-19C which withdrew and superseded the proposals concerning PMA contained in Notice 77-19. In addition, Notice 77-19C also proposed a rule that would clarify and strengthen the agency's enforcement policy by prohibiting and prescribing administrative sanctions for certain acts involving falsifying applications, reports, and records under Part 21.

Notice 77-19C specified that initial comments must be received on or before April 15, 1981, and reply comments must be received on or before May 15, 1981.

Reopening of Comment Period

By letter dated April 14, 1981, Robert M. Beckman, attorney for Superior Air Parts, Inc., petitioned the FAA for a 30-day extension of the comment period. This petition was denied. By letter dated June 18, 1981, Superior Air Parts, Inc., petitioned the Administrator to review the Director of Airworthiness' denial of Superior Air Parts' request to reopen the comment period on NPRM 77-19C. The petitioner states that for reasons outside its control, Superior Air Parts was unable to prepare its comments within the short time provided by Notice 77-19C and that additional time is needed to evaluate the proposal and develop its comments. The petitioner contended in the April 14 letter that reopening the comment period is in the public interest because of the need for additional public comments on what were perceived to be certain novel and confusing aspects of the proposal.

The FAA has reviewed this request and has determined that reopening the comment period would afford the public an additional opportunity to furnish information that should be considered in the development of the final regulations. This action is consistent with Executive Order 12291 and the FAA's desire to assure full public participation in its regulatory actions. The FAA concludes that the public interest would be served by granting an additional 30 days for submission of written comments.

Accordingly, the comment period for initial comments to Notice 77-19C is reopened to close on August 24, 1981. Reply comments are due on or before September 21, 1981.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45)

Note.—This document reopens the comment period on a previously issued NPRM, Notice 77–19C, but makes no substantive change to the proposals of that notice.

The FAA has determined that Notice 77–19C involves changes to regulations which are considered to the significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared for Notice 77–19C and is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact" in this document. The FAA has further determined that the proposed rules are not major under Executive Order 12291 and if promulgated will not have a significant economic impact on a substantial number of small entities since the changes proposed would relieve the administrative burden currently encountered for applicants for Parts Manufacturer Approvals.

Issued in Washington, D.C., on July 2, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-21545 Filed 7-22-81; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing July 21, 1981

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